

DEPARTMENT OF LABOR AND INDUSTRY

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Subchapter 1

Organizational Rule

24.156.101 BOARD ORGANIZATION (1) The Montana state board of medical examiners adopts and incorporates the organizational rules of the department of labor and industry as listed in chapter 1 of this title. (History: 2-4-201, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; AMD, Eff. 3/7/75; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2001 MAR p. 1471.)

Subchapter 2

Procedural Rules

24.156.201 PROCEDURAL RULES (1) The Montana state board of medical examiners adopts and incorporates the procedural rules of the department of labor and industry as listed in chapter 2 of this title. (History: 2-4-201, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; AMD, Eff. 3/7/75; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.202 CITIZEN PARTICIPATION RULES (1) The Montana state board of medical examiners hereby adopts and incorporates by this reference the public participation rules of the department of commerce as listed in chapter 2 of Title 8. (History: 2-3-103, MCA; IMP, 2-3-103, MCA; NEW, 1978 MAR p. 391, Eff. 3/25/78; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.203 BOARD MEETINGS (1) The president of the board elected in accordance with the provisions of 37-3-201, MCA, shall preside over all proceedings before the board. In the president's absence, the vice-president shall preside. In the absence of both, the senior member present shall preside. (History: 37-3-203, MCA; IMP, 37-3-204, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

Subchapter 3 reserved

Subchapter 4

General Provisions

Rules 24.156.401 through 24.156.409 reserved

24.156.410 FEE ABATEMENT (1) The Board of Medical Examiners adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301. (History: 37-1-131, MCA; IMP, 17-2-302, 17-2-303, 37-1-134, MCA; NEW, 2005 MAR p. 2676, Eff. 12/23/05.)

Rules 24.156.411 through 24.156.429 reserved

24.156.430 PROFESSIONAL ASSISTANCE PROGRAM PURPOSE

(1) The Montana Board of Medical Examiners has established a program which provides assistance, rehabilitation, and after-care monitoring to all licensed health care providers under the jurisdiction of the board who are suspected and/or found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance, or by mental or chronic physical illness.

(2) The board encourages and shall permit the rehabilitation of licensees, if in the board's opinion, public health, safety, and welfare can be assured. Early intervention and referral are paramount to promoting public health, safety, and welfare. (History: 37-1-131, 37-3-203, MCA; IMP, 37-1-131, 37-3-201, 37-3-203, MCA; NEW, 2006 MAR p. 1957, Eff. 8/11/06.)

24.156.431 REPORTING OF SUSPECTED IMPAIRMENT (1) Individuals, entities, or associations may report information to the board of the suspected impairment of a licensee or new license applicant, as provided in 37-3-203 and 37-3-401, MCA.

(2) Individuals, entities, or associations may report information of suspected impairment of a licensee or new license applicant to the appropriate personnel of the professional assistance program established by the board in lieu of reporting to the board, as provided in 37-3-203 and 37-3-401, MCA.

(3) Reports received by the board of suspected impaired licensees or license applicants may be referred to the professional assistance program at the board's discretion through the nondisciplinary track without formal disciplinary action against the licensee or license applicant. (History: 37-1-131, 37-3-203, MCA; IMP, 37-1-131, 37-3-201, 37-3-203, MCA; NEW, 2006 MAR p. 1957, Eff. 8/11/06.)

24.156.432 PROTOCOL FOR SELF-REPORTING TO A BOARD ENDORSED PROFESSIONAL ASSISTANCE PROGRAM (1) If a licensee or license applicant chooses to self-report to the board-established professional assistance program, and the professional assistance program has determined that the licensee or license applicant needs assistance or supervision, the licensee or license applicant shall be required to:

(a) enter into a contractual agreement with the professional assistance program for the specified length of time determined by the professional assistance program; and

(b) abide by all the requirements set forth by the professional assistance program.

(2) Self-reporting by a licensee or license applicant may still result in disciplinary action by the board, if:

(a) the professional assistance program determines that the self-reporting licensee or the license applicant poses a danger to themselves or to the public;

(b) the licensee or license applicant is noncompliant with a contractual agreement with the professional assistance program;

(c) the licensee or license applicant has not completed evaluation, treatment, or after-care monitoring as recommended by the professional assistance program; or

(d) the screening panel otherwise determines that disciplinary action is warranted.

(3) The professional assistance program shall notify the board, disclose the identity of the licensee or license applicant involved, and provide all facts and documentation to the board whenever:

(a) the licensee or license applicant:

(i) has committed an act described in 37-3-323 or 37-3-401, MCA;

(ii) is noncompliant with a recommendation of the professional assistance program for evaluation, treatment, or after-care monitoring contract; or

(iii) is the subject of credible allegations that the licensee or license applicant has put a patient or the public at risk or harm; or

(b) the screening panel otherwise determines disciplinary action is warranted.

(History: 37-1-131, 37-3-203, MCA; IMP, 37-1-131, 37-3-201, 37-3-203, MCA; NEW, 2006 MAR p. 1957, Eff. 8/11/06.)

24.156.433 RESPONSIBILITIES OF PROFESSIONAL ASSISTANCE

PROGRAM (1) The professional assistance program established by the board as set forth in 37-3-203 and 37-3-401, MCA, shall fulfill the terms of its contract with the board, which will include, but not be limited to the following:

(a) providing two tracks for assistance of licensees and license applicants under the board's jurisdiction:

(i) a disciplinary track; and

(ii) a nondisciplinary track;

(b) providing recommendations to licensees and license applicants for appropriate evaluation and treatment facilities;

(c) recommending to the board terms and conditions of treatment, rehabilitation, and monitoring of licensees or license applicants known to the board; and

(d) monitoring all aftercare of participants under contract, to ensure public safety and compliance with agreed treatment recommendations propounded by one or more of the following:

- (i) the board, through stipulations and/or final orders;
- (ii) treatment centers; and
- (iii) the professional assistance program established by the board.

(2) The professional assistance program shall consult with the board regarding professional assistance program processes and procedures to ensure program responsibilities are met, consistent with board orders, requests and contract terms.

(3) The professional assistance program shall provide information to and consult with the board upon the board's request. (History: 37-1-131, 37-3-203, MCA; IMP, 37-1-131, 37-3-201, 37-3-203, MCA; NEW, 2006 MAR p. 1957, Eff. 8/11/06.)

Rule 24.156.434 reserved

24.156.435 PROTOCOL FOR DISCIPLINARY TRACK (1) All licensees or license applicants under the jurisdiction of the board who participate in the endorsed professional assistance program under the disciplinary track shall be reported to the board by name.

(2) A licensee or license applicant is placed in the disciplinary track by one or more of the following:

- (a) as a condition of licensure imposed by a board final order;
 - (b) as a result of a sanction imposed by a board final order;
 - (c) as a result of noncompliance with the licensee's or license applicant's contractual agreement with the program;
 - (d) pursuant to an agreement between the licensee and the screening panel;
- or

(e) pursuant to an agreement between the license applicant and the full board. (History: 37-1-131, 37-3-203, MCA; IMP, 37-1-131, 37-3-201, 37-3-203, MCA; NEW, 2006 MAR p. 1957, Eff. 8/11/06.)

Rules 24.156.436 and 24.156.437 reserved

24.156.438 PROTOCOL FOR NONDISCIPLINARY TRACK (1) A licensee or license applicant under the jurisdiction of the board who participates in the professional assistance program under the nondisciplinary track shall be reported to the board by participant number.

(2) The identity of the participant who is noncompliant or refuses a reasonable request by the professional assistance program shall be reported to the board.

(3) If the board determined that a participant does not abide by all terms and conditions of the professional assistance program, the participant will be referred to the screening panel of the board for appropriate action under the disciplinary track. (History: 37-1-131, 37-3-203, MCA; IMP, 37-1-131, 37-3-201, 37-3-203, MCA; NEW, 2006 MAR p. 1957, Eff. 8/11/06.)

Rule 24.156.439 reserved

24.156.440 REPORTING TO THE BOARD (1) The screening panel of the board must receive a written compliance status report from the professional assistance program, at intervals established by the contract between the program and the board, regarding each program participant:

- (a) under a monitoring agreement;
- (b) referred to the program; or
- (c) in the process of evaluation or treatment.

(2) The full board shall receive a written compliance status report from the professional assistance program, at intervals established by contract between the program and the board, regarding each participant:

- (a) under a monitoring agreement;
- (b) referred to the program; or
- (c) in the process of evaluation or treatment.

(3) The identity of a participant in the nondisciplinary track must be reported to the full board by participant number except as required by ARM 24.156.438.

(4) The identity of a participant in the disciplinary track must be reported to the full board by name. (History: 37-1-131, 37-3-203, MCA; IMP, 37-1-131, 37-3-201, 37-3-203, MCA; NEW, 2006 MAR p. 1957, Eff. 8/11/06.)

24.156.441 DISCHARGE REQUIREMENTS (1) The professional assistance program shall facilitate participant discharge from the program.

(2) The discharge criteria must be determined by the board in conjunction with the recommendations of the professional assistance program.

(3) The following are required upon discharge of a participant from the endorsed professional assistance program:

- (a) report of the discharge of the participant to the board; and
- (i) verification of satisfactory completion of monitoring, program requirements, and appropriate assurance of public safety;
- (ii) completion of board final order terms and conditions with professional assistance recommendation for discharge and release;
- (iii) request by a participant to transfer assistance into an appropriate endorsed professional assistance program in another jurisdiction, such transfer to be confirmed by the program. (History: 37-1-131, 37-3-203, MCA; IMP, 37-1-131, 37-3-201, 37-3-203, MCA; NEW, 2006 MAR p. 1957, Eff. 8/11/06.)

Rules 24.156.442 and 24.156.443 reserved

24.156.444 RELAPSE REPORTING (1) The professional assistance program shall define what constitutes "relapse" for each particular participant and determine if and when relapse has occurred.

(a) A participant who has a single episode of relapse and/or early detection of relapse with nominal substance abuse may be reported to the board by the professional assistance program.

(b) A participant who has a second or severe relapse must be reported by the professional assistance program to the board screening panel for review.

(2) Any of the following may be required by the board, upon the recommendation of the professional assistance program, when a participant suffers relapse:

- (a) the participant may be required to withdraw from practice;
- (b) the participant may undergo further recommended evaluation and/or treatment as determined by the professional assistance program;
- (c) the participant's monitoring agreement required by the professional assistance program must be reassessed and may be modified;
- (d) the participant may be required to comply with other recommendations of the professional assistance program; or
- (e) the participant may be subject to discipline as imposed by a board final order. (History: 37-1-131, 37-3-203, MCA; IMP, 37-1-131, 37-3-201, 37-3-203, MCA; NEW, 2006 MAR p. 1957, Eff. 8/11/06.)

Subchapter 5

Definitions - Schools - Students - Interns - Residents

24.156.501 DEFINITIONS For the purpose of these rules, the following definitions shall apply:

(1) Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; and words importing the masculine gender may be applied to females.

(2) "Act" means the Medical Practice Act of the state of Montana, 37-3-101 through 37-3-405, MCA, as amended from time to time.

(3) "Applicant" means a person who has applied for a license to practice medicine in the state of Montana, or a person who has applied to take a licensing examination.

(4) "Complainant" means a person filing a complaint.

(5) "Foreign medical graduate" means a graduate of a medical school:

(a) not located in a state or territory of the United States, or the District of Columbia; and

(b) that is listed in the World Health Directory of Medical Schools.

(6) "Intern" means a person who has graduated from an approved medical school, and is enrolled in a program of training approved for first year post-graduates. The intern may also be referred to as "in post-graduate year 1" (PGY-1), or "first year resident."

(a) An intern has passed USMLE Steps 1 and 2, and is preparing for, or awaiting the results of, USMLE Step 3, or the American osteopathic equivalent;

(b) An intern is not:

(i) yet eligible for licensure;

(ii) required to obtain a license for medical practice performed while in Montana; and

(iii) monitored by the board.

(c) The board may extend the time of internship beyond one year for good cause shown.

(7) "Medical student" means a person currently enrolled in a school of allopathic or osteopathic medicine approved by the Council on Medical Education of the American Medical Association, the Bureau of Professional Education of the American Osteopathic Association, or the board.

(a) A medical student is not:

(i) yet eligible for licensure;

(ii) required to obtain a license for medical practice performed while in Montana; and

(iii) monitored by the board.

(b) A person is not a medical student if the person:

(i) has been awarded a doctorate degree and successfully completed the United States Medical Licensing Examination (USMLE) Steps 1 and 2, or the equivalent level of testing by the American Osteopathic Association; or

(ii) has passed USMLE Step 3, or the equivalent level of testing by the American Osteopathic Association.

(8) "Proceeding" shall include:

(a) a formal complaint alleging violation of any provision of the act or any regulation or requirement made pursuant to a power granted by such act;

(b) a hearing before the board pursuant to the provisions of 37-3-321 through 37-3-324, MCA.

(9) "Resident" means a person who is educationally eligible for licensure as a physician, that is:

(a) has the degree of medical doctor, doctor of osteopathy or an equivalent degree;

(b) for purposes of licensure only:

(i) prior to October 1, 2001, has completed post-graduate year 1; or

(ii) on or after October 1, 2001, has completed post-graduate year 2;

(c) holds a certificate from the Educational Commission for Foreign Medical Graduates (ECFMG) where applicable; and

(d) is enrolled in a residency training program approved by the Accreditation Council for Graduate Medical Education (ACGME) or the equivalent American Osteopathic Association credentialing body;

(e) a resident may apply for licensure:

(i) if the resident is enrolled in an ACGME-approved residency or a residency approved by the American Osteopathic Association, the resident need not have an existing, active license to practice as a physician in a state or territory of the United States;

(ii) if the resident is not enrolled in an ACGME-approved residency, the resident must have an existing, active license to practice as a physician in a state or territory of the United States in order to obtain resident registration.

(10) "Secretary" means the executive secretary of the Montana state Board of Medical Examiners.

(11) "Surgery" means any procedure in which human tissue is cut or altered by mechanical or energy forms, including electrical or laser energy or ionizing radiation. (History: 37-3-203, MCA; IMP, 37-3-102, 37-3-201, 37-3-305, 37-3-306, 37-3-307, 37-3-325, 37-3-326, MCA; Eff. 12/31/72; AMD, Eff. 3/7/75; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1990 MAR p. 1700, Eff. 8/31/90; AMD, 1992 MAR p. 2050, Eff. 9/11/92; AMD, 1995 MAR p. 2480, Eff. 11/23/95; AMD, 2000 MAR p. 3520, Eff. 12/22/00; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.502 MEDICAL SCHOOLS (1) Any medical school which has not been approved by the Council on Medical Education of the American Medical Association or its successors or an equivalent organization may be approved upon investigation of its educational standards and facilities by the Montana state Board of Medical Examiners at the cost of the applicant which shall include foreign medical schools using any means the board determines to be feasible. (History: 37-3-203, MCA; IMP, 37-3-102, MCA; Eff. 12/31/72; AMD, Eff. 3/7/75; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.503 MEDICAL STUDENT'S PERMITTED ACTIVITIES (1) All medical practice must be under the direct supervision of a Montana-licensed physician, who must be aware of the limitations on the medical student's scope of practice. Either the medical student's medical school or the supervising physician must carry malpractice insurance covering the medical student's practice during the training process.

(2) As used herein, "direct supervision" means that the supervising physician is physically present in the same building as the medical student, or is within 20 minutes of the physical presence of the patient being cared for by the medical student.

(3) The medical student may:

(a) assist the licensed physician in medical procedures (for example, suturing wounds) in an office or hospital;

(b) scrub and assist the licensed physician in surgery;

(c) participate in educational and patient conferences; and

(d) participate in medical research.

(4) The medical student may not practice independently; for example, among other things, the medical student may not:

(a) perform surgery;

(b) care for a patient in an emergency room without the physical presence of the supervising physician;

(c) prescribe medications without the cosignature of the medical student's supervising physician;

(d) write or issue orders without the cosignature of the medical student's supervising physician; or

(e) sign hospital records or patient charts without the cosignature of the medical student's supervising physician. (History: 37-1-131, 37-3-203, MCA; IMP, 37-3-102, 37-3-203, MCA; NEW, 2000 MAR p. 729, Eff. 2/25/00; TRANS, from ARM 8.28.1524, 2000 MAR p. 3520, Eff. 12/22/00; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.504 INTERNSHIP (1) An internship not approved as required by 37-3-102(1), MCA, may be approved upon investigation by the board through its executive secretary or some other regularly licensed physician or any other representative which the board may choose, at the expense of the applicant requesting approval of the internship. (History: 37-3-203, MCA; IMP, 37-3-102, MCA; Eff. 12/31/72; AMD, Eff. 3/7/75; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.505 INTERN'S SCOPE OF PRACTICE (1) If the training program in which the intern is enrolled is approved by the ACGME, the intern's scope of practice shall be defined by the residency review committee of the ACGME, or American Osteopathic Association equivalent.

(2) If the training program in which the intern is enrolled is not approved by the ACGME or American Osteopathic Association equivalent, the intern's medical practice must be under the direct supervision of a Montana-licensed physician, who:

(a) must be aware of the statutory limitations on the intern's scope of practice; and

(b) must carry malpractice insurance covering the intern's conduct during the training process.

(3) As used herein, "direct supervision" means that the supervising physician is physically present in the same building as the intern, or is within 20 minutes of the physical presence of the patient being cared for by the intern.

(4) Subject to the local training program's requirements, the intern may:

(a) assist the licensed physician in medical procedures (office and hospital);

(b) scrub and assist the licensed physician in surgery;

(c) participate in educational and patient conferences;

(d) participate in medical research;

(e) prescribe medications, without the cosignature of the intern's supervising physician;

(f) write or issue orders, without the cosignature of the intern's supervising physician; and

(g) sign hospital records or patient charts, without the cosignature of the intern's supervising physician.

(5) The intern may not practice independently; for example, among other things, the intern may not:

(a) perform surgery; or

(b) care for a patient in an emergency room without the physical presence of the supervising physician. (History: 37-1-131, 37-3-203, MCA; IMP, 37-3-102, 37-3-203, MCA; NEW, 2000 MAR p. 729, Eff. 2/25/00; TRANS, from ARM 8.28.1525, 2000 MAR p. 3520, Eff. 12/22/00; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.506 RESIDENCY (1) A residency which has not been approved as required by 37-3-102(2), MCA, may be approved upon investigation conducted by the board, through its executive secretary or any other representative which the board may choose, at the expense of the applicant. (History: 37-3-203, MCA; IMP, 37-3-102, MCA; Eff. 12/31/72; AMD, Eff. 3/7/75; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.507 RESIDENT'S SCOPE OF PRACTICE (1) A resident may practice medicine in a hospital or clinic in which the resident is training, under the general supervision of a Montana-licensed physician.

(2) As used herein, "general supervision" means that the supervising physician need not be physically present in the same building as the resident, nor within 20 minutes of the physical presence of the patient being cared for by the resident.

(3) If the training program in which the resident is enrolled is approved by, or affiliated with a program approved by the ACGME, the resident's scope of practice shall be defined by the residency review committee of the ACGME.

(4) If the training program in which the resident is enrolled is not approved by the ACGME, the supervising physician must be aware of the statutory limitations on the resident's scope of practice, and must carry malpractice insurance covering the resident's conduct during the training process.

(5) A resident may, among other things:

- (a) participate in active, actual patient care;
- (b) write prescriptions and orders without cosignature of the sponsoring or supervising physician;
- (c) sign hospital charts and office records;
- (d) assume increasing responsibility in surgical and medical care, within the context of a review process;
- (e) take emergency room and other calls independently and without direct supervision; and

(f) participate in medical research and review processes. (History: 37-1-131, 37-3-203, MCA; IMP, 37-3-102, 37-3-203, MCA; NEW, 2000 MAR p. 729, Eff. 2/25/00; TRANS, from ARM 8.28.1526, 2000 MAR p. 3520, Eff. 12/22/00; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.508 APPROVED RESIDENCY (1) A residency is approved for purposes of 37-3-102(3), MCA, if the training program meets the following criteria:

- (a) is in a hospital or clinic located in the United States; and
- (b) has been approved by the American Council on Graduate Medical Education or the American Osteopathic Association.

(2) Alternatively, a residency is approved if, upon investigation, the board finds that the residency:

- (a) is approved by, or affiliated with, the World Health Organization;
- (b) carries malpractice insurance;
- (c) has been approved for certification by the American Board of Medical Specialties;
- (d) requires residents to have sufficient fluency in spoken and written English to practice medicine with reasonable skill and safety;
- (e) has an internal examination process (if written examinations are conducted, the residency will provide the board with reports or access to examination results); and
- (f) provides that residents are supervised by a mentor who:
 - (i) is a licensed physician; and
 - (ii) provides written evaluations and/or reports to the training program, and to the board upon request. (History: 37-1-131, 37-3-202, MCA; IMP, 37-3-102, 37-3-203, MCA; NEW, 2000 MAR p. 729, Eff. 2/25/00; TRANS, from ARM 8.28.1527, 2000 MAR p. 3520, Eff. 12/22/00; TRANS, from Commerce, 2001 MAR p. 1471.)

Subchapter 6

Medical Examiners - Licensure

24.156.601 FEE SCHEDULE (1) The following fees will be charged:

(a) Application fee - reciprocity or endorsement	\$325
(b) Temporary certificate fee	325
(c) Temporary locum tenens	50
(d) Renewal fee (active)	
(i) even numbered licenses renewing for one year	200
(ii) odd numbered licenses renewing for two years	400
(e) Renewal fee (inactive)	
(i) even numbered licenses renewing for one year	100
(ii) odd numbered licenses renewing for two years	200
(f) Renewal fee (inactive-retired)	
(i) even numbered licenses renewing for one year	32.50
(ii) odd numbered licenses renewing for two years	65
(2) Additional standardized fees to be charged are specified in ARM	

24.101.403.

(3) All fees are nonrefundable. (History: 37-1-134, 37-1-141, 37-1-319, 37-3-203, MCA; IMP, 37-1-134, 37-1-141, 37-3-203, 37-3-304, 37-3-308, 37-3-309, 37-3-311, 37-3-313, MCA; NEW, 1982 MAR p. 1389, Eff. 7/16/82; AMD, 1982 MAR p. 2134, Eff. 12/17/82; AMD, 1983 MAR p. 273, Eff. 4/1/83; AMD, 1985 MAR p. 687, Eff. 6/14/85; AMD, 1988 MAR p. 45, Eff. 1/15/88; AMD, 1989 MAR p. 395, Eff. 3/31/89; AMD, 1990 MAR p. 1700, Eff. 8/31/90; AMD, 1992 MAR p. 1607, Eff. 7/31/92; AMD, 1995 MAR p. 2480, Eff. 11/23/95; AMD, 1997 MAR p. 2197, Eff. 12/2/97; AMD, 1999 MAR p. 1766, Eff. 8/13/99; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

24.156.602 NONREFUNDABLE FEES (REPEALED) (History: 37-3-203, MCA; IMP, 37-3-314, MCA; NEW, Eff. 4/4/75; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2006 MAR p. 1583, Eff. 7/1/06.)

24.156.603 APPLICATIONS FOR LICENSURE (1) Application forms will be provided to an applicant in accordance with the requirement of 37-3-305, MCA, and all of the requirements set forth in 37-3-101 through 37-3-405, MCA. In addition to the foregoing, the board may, in its discretion, require statements of good character and references from all areas where the applicant has previously resided.

(2) The board may make an independent investigation of any applicant to determine whether the applicant has the qualifications necessary to be licensed, and whether the applicant has previously been guilty of any offenses which would constitute unprofessional conduct. The board may require the applicant to release any information or records pertinent to the board's investigation. The board shall require the applicant to furnish information on all states in which the applicant has previously been licensed. The applicant must furnish references upon request by the board from each community in which the applicant has practiced.

(3) An applicant who has not engaged in the active practice of medicine for the two or more years preceding his or her application must, in addition to meeting all other requirements for licensure, pass the special purpose examination given by the Federation of State Medical Boards, or its successor. (History: 37-3-203, MCA; IMP, 37-3-101, 37-3-202, 37-3-309, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1992 MAR p. 1607, Eff. 7/31/92; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.604 REFUSAL OF LICENSE (1) Whenever the board refuses to grant a license to an applicant for any reason, as provided in 37-3-321, MCA, the board shall give at least 20 days' notice of its action to the applicant at the applicant's last known address. The notice must advise the applicant of a time and place the applicant may appear before the board to be heard and to present evidence and argument. (History: 37-3-203, MCA; IMP, 37-3-321, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.605 TEMPORARY CERTIFICATE (1) Temporary licenses are entirely within the discretion of the board. The application, examination and information furnished by the applicant will be carefully scrutinized to determine whether the applicant is qualified for a temporary license.

(2) A temporary license must be reviewed and signed by one member of the board. The reviewing board member may require the applicant to attend an interview with the reviewing board member, the board or both, in the reviewing board member's discretion. A temporary license is valid until the next board meeting, at which time the board may extend it for a period up to one year. (History: 37-3-203, MCA; IMP, 37-3-301, 37-3-304, 37-3-307, MCA; Eff. 12/31/72; NEW, Eff. 4/4/75; AMD, Eff. 5/5/75; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 2134, Eff. 12/17/82; AMD, 1990 MAR p. 1700, Eff. 8/31/90; AMD, 1995 MAR p. 2480, Eff. 11/23/95; AMD, 1997 MAR p. 2197, Eff. 12/2/97; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.606 EXAMINATION (1) Eligibility requirements for USMLE Step III are:

- (a) an M.D. or D.O. degree, and
- (b) completion, or near completion, of one year of postgraduate training in a program of graduate medical education accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association, and
- (c) a score of 75 or more on one of the following:
 - (i) National Board of Medical Examiners examination ("NBME") Parts I and II, taken before January 1, 2000; or
 - (ii) Federation Licensing Examination ("FLEX") Component I, taken before January 1, 2000; or
 - (iii) USMLE Steps I and II, and
- (d) for foreign medical graduates not eligible for the fifth pathway, a score of 75 or more on ECFMG.

(2) USMLE Step III must be taken within seven years of the applicant's first examinations under (1)(c) unless the applicant is or has been a student in a recognized M.D./Ph.D. program in a field of biological sciences tested in the Step I content. Applicants seeking an exception to the seven-year rule shall present a verifiable and rational explanation for being unable to meet the seven-year limit.

(3) If an applicant fails to obtain a score of 75 or more in the first attempt at USMLE Step III, the applicant may be reexamined no more than two additional times.

(4) For exams taken prior to January 1, 2000, the board will accept the following combination of examinations passed with a score of 75 or more for each component exam, in satisfaction of the examination requirement for licensure:

- (a) NBME Parts I, II and III; or
- (b) NBME Part I or USMLE Step 1, plus NBME Part II or USMLE Step 2, plus NBME Part III or USMLE Step 3; or

(c) FLEX Components 1 and 2; or
(d) FLEX Component 1 plus USMLE Step 3; or
(e) NBME Part I or USMLE Step 1, plus NBME Part II or USMLE Step 2, plus FLEX Component 2.

(5) For exams taken after January 1, 2000, the board will accept only USMLE Steps 1, 2 and 3, passed with a score of 75 or more for each step.

(6) The board will accept an examination by the National Board of Examiners for Osteopathic Physicians and Surgeons, or its successor, passed with a score of 75 or more, regardless of date of examination. (History: 37-3-203, MCA; IMP, 37-3-306, 37-3-307, 37-3-308, 37-3-311, MCA; Eff. 12/31/72; AMD, Eff. 11/4/74; NEW, Eff. 3/7/76; AMD, 1979 MAR p. 801, Eff. 7/27/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1983 MAR p. 69, Eff. 1/28/83; AMD, 1985 MAR p. 687, Eff. 6/14/85; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2001 MAR p. 1474, Eff. 8/10/01; AMD, 2003 MAR p. 1636, Eff. 8/1/03.)

24.156.607 GRADUATE TRAINING REQUIREMENTS FOR FOREIGN MEDICAL GRADUATES (1) A license will not be granted to a foreign medical graduate unless:

(a) the graduate has had three years of post-graduate training education in a post-graduate institution that has been approved by the Council on Medical Education of the American Medical Association or the American Osteopathic Association or successors; or

(b) the graduate has been granted board-certification by a specialty board which is approved by, and a member of, the American Board of Medical Specialties or the American Osteopathic Association. (History: 37-3-203, MCA; IMP, 37-3-305, MCA; NEW, 1985 MAR p. 687, Eff. 6/14/85; AMD, 1995 MAR p. 2480, Eff. 11/23/95; AMD, 1999 MAR p. 275, Eff. 2/12/99; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.608 ECFMG REQUIREMENTS (1) The ECFMG requirement may be waived for graduates of Canadian medical schools if the school is approved by the Medical Council of Canada, or successors.

(2) Except as set forth in (1), a foreign medical graduate must pass the examination of the Educational Council on Foreign Medical Graduates with a score of 75 or more. (History: 37-3-203, MCA; IMP, 37-3-305, 37-3-306, 37-3-307, 37-3-311, MCA; NEW, Eff. 5/5/75; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1985 MAR p. 687, Eff. 6/14/85; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.609 FIFTH PATHWAY PROGRAM (1) The fifth pathway program is one year of supervised clinical education or training in an educational center approved for that purpose by the American Medical Association or the American Osteopathic Association or successors.

(2) The fifth pathway program, as approved by the American Medical Association Accreditation Council for Graduate Medical Education may be accepted by the board if the applicant:

- (a) is a United States citizen, and
- (b) has completed, in an accredited college or university in the United States, undergraduate premedical education of the quality acceptable for matriculation in an LCME-accredited U.S. medical school, and
- (c) has completed four years of didactic instruction at a medical school outside the U.S. or Canada that is listed in the World Health Directory of Medical Schools, and
- (d) has completed all of the formal requirements of the foreign medical school except internship, social service or certain clinical or practice requirements of the school or government, and
- (e) has attained a score satisfactory to the sponsoring medical school on a screening examination, and
- (f) has passed the foreign medical graduate examination in the medical sciences, or parts I and II of the examination of the National Board of Medical Examiners ("NBME"), or Component I of the Federation Licensing Examination ("FLEX"), or Steps 1 and 2 of the United States Medical Licensing Examination ("USMLE").

(3) Suitable evidence must be provided to the board of the fifth pathway program. (History: 37-3-203, MCA; IMP, 37-3-102, 37-3-306, 37-3-307, 37-3-309, MCA; NEW, Eff. 5/5/75; NEW, Eff. 3/7/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.610 RECIPROCITY (1) An applicant for licensure by reciprocity or endorsement must have successfully passed an examination deemed essentially equivalent to the examination given by the board. The examination given by the licentiate medical county of Canada is deemed essentially equivalent to that given by the board.

(2) An applicant for licensure by reciprocity may be required, in the discretion of the board, to take an examination after the board has examined the application, the diploma of the applicant and all other information received.

(3) An applicant who has once failed the examination in Montana will not be granted a license by reciprocity on credentials from another state or from a national board.

(4) Licensure by reciprocity is in the discretion of the board, after a full examination of all documents received. (History: 37-3-203, MCA; IMP, 37-3-306, 37-3-307, 37-3-311, MCA; Eff. 12/31/72; NEW, Eff. 5/5/75; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1985 MAR p. 687, Eff. 6/14/85; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.611 OCCASIONAL CASE EXEMPTION (1) The board may, in its discretion, grant an exemption to a physician who renders medical services in this state, provided that the physician:

(a) submits a written request to the board, describing the date, place, and the scope of practice and/or the procedure to be performed, at least 15 days prior to such service;

(b) submits proof of medical licensure (active and in good standing) and practice in another state or territory of the United States;

(c) submits the name of a physician licensed in this state who will be in attendance and will assume continuing care for the patient; and

(d) limits the service to an occasional case.

(2) An occasional case is defined as not more than two cases per year. (History: 37-3-203, MCA; IMP, 37-3-103, MCA; NEW, 2001 MAR p. 1475, Eff. 8/10/01.)

Rules 24.156.612 through 24.156.614 reserved

24.156.615 RENEWALS (1) Renewal notices will be sent as specified in ARM 24.101.414.

(2) Beginning with the 2008 renewal cycle, one-half of the licensees will renew for a period of one year.

(a) Licensees with an even numbered license will renew for a one-year period.

(b) Licensees with an odd numbered license will renew for a two-year period.

(c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.

(3) A physician actively engaged in the practice of medicine with a permanent license shall pay a license fee. If the physician does not pay the license fee and return the required renewal before the date set by ARM 24.101.413, the physician must pay the late penalty fee specified in ARM 24.101.403 in order to renew the physician's license.

(4) A physician with a permanent license not actively engaged in the practice of medicine in this state or absent from this state for a period of one or more years may renew as an inactive licensee and pay the inactive fee listed in ARM 24.156.601.

(5) A physician with a permanent license not engaged in the practice of medicine and who has retired from practice may renew this license as an inactive-retired licensee and pay the fee listed in ARM 24.156.601. A retired license may not be reactivated. The individual must reapply for a new original license.

(6) The provisions of ARM 24.101.408 apply. (History: 37-1-134, 37-1-141, 37-3-203, MCA; IMP, 37-1-134, 37-1-141, 37-3-313, MCA; NEW, Eff. 3/7/76; AMD, 1979 MAR p. 40, Eff. 1/26/79; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 1389, Eff. 7/16/82; AMD, 1982 MAR p. 1739, Eff. 10/1/82; AMD, 1985 MAR p. 687, Eff. 6/14/85; AMD, 1989 MAR p. 395, Eff. 3/31/89; AMD, 1990 MAR p. 1700, Eff. 8/31/90; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 505, Eff. 4/27/07.)

24.156.616 REGISTRY (1) The board will keep a register of all physicians licensed in Montana, showing the status of each license. (History: 37-3-203, MCA; IMP, 37-3-205, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.617 ACTIVE AND INACTIVE LICENSE (1) If the board determines that an applicant or licensee possesses the qualifications for licensure required under Title 37, chapter 3, MCA, the board may instruct the department to issue licenses in the following categories:

(a) active license;

(b) inactive license; or

(c) inactive-retired license.

(2) An active license is required for a physician actively practicing medicine in this state at any time during the renewal period.

(a) As used in this rule, "renewal period" means:

(i) for even numbered licenses, the one-year period from the renewal date as listed in ARM 24.101.413 of a given year through the day immediately prior to the renewal date of the following year;

(ii) for odd numbered licenses, the two-year period from the renewal date as listed in ARM 24.101.413 of a given year through the day immediately prior to the renewal date of the two-year cycle.

(b) The term "actively practicing medicine" means the exercise of any activity or process identified in 37-3-102(6), MCA.

(c) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year. An active license must be renewed as follows:

(i) licensees with an even numbered license will renew for a one-year period; and

(ii) licensees with an odd numbered license will renew for a two-year period.

(3) An inactive license may be obtained by a physician who is not actively practicing medicine in this state, and does not intend to actively practice medicine in this state at any time during the current renewal period, but may wish to reactivate in the future.

(a) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year. An inactive license must be renewed by the renewal date set by the department in ARM 24.101.413 as follows:

(i) licensees with an even numbered license will renew for a one-year period; and

(ii) licensees with an odd numbered license will renew for a two-year period.

(b) To renew a license on inactive status, a physician must pay a fee prescribed by the board, and complete the renewal prior to the date set by ARM 24.101.413.

(4) An inactive-retired license may be obtained by an applicant or licensed physician who is not actively practicing medicine in this state and does not intend ever to practice medicine in this state in the future.

(a) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year. An inactive-retired license must be renewed by the renewal date set in ARM 24.101.413 as follows:

(i) licensees with an even numbered license will renew for a one-year period; and

(ii) licensees with an odd numbered license will renew for a two-year period.

(b) If both the renewal fee and completed renewal are not returned prior to the date specified in ARM 24.101.413, the physician must pay the late penalty fee specified in ARM 24.101.403 in order to renew the license. (History: 37-1-141, 37-1-319, MCA; IMP, 37-1-141, 37-1-319, MCA; NEW, 1996 MAR p. 3213, Eff. 12/20/96; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

24.156.618 TESTING REQUIREMENT (1) A physician seeking to reactivate a license which has been inactive or inactive-retired for the two or more years preceding the request for reactivation must pass the special purpose examination given by the Federation of State Medical Boards. (History: 37-3-203, MCA; IMP, 37-3-101, 37-3-202, MCA; NEW, 1992 MAR p. 1607, Eff. 7/31/92; TRANS, from Commerce, 2001 MAR p. 1471.)

Rules 24.156.619 through 24.156.624 reserved

24.156.625 UNPROFESSIONAL CONDUCT (1) In addition to those forms of unprofessional conduct defined in 37-1-316, MCA, the following is unprofessional conduct for a licensee or license applicant under Title 37, chapter 3, MCA:

(a) conviction, including conviction following a plea of nolo contendere, of an offense involving moral turpitude, whether misdemeanor or felony, and whether or not an appeal is pending;

(b) fraud, misrepresentation, deception or concealment of a material fact in applying for or securing a license, or license renewal, or in taking an examination required for licensure; as used herein, "material" means any false or misleading statement or information;

(c) conduct likely to deceive, defraud or harm the public;

(d) making a false or misleading statement regarding the licensee's skill or the effectiveness or value of the medicine, treatment, or remedy prescribed by the licensee or at the licensee's direction in the treatment of a disease or other condition of the body or mind;

(e) resorting to fraud, misrepresentation or deception in the examination or treatment of a person, or in billing, giving or receiving a fee related to professional services, or reporting to a person, company, institution or organization, including fraud, misrepresentation or deception with regard to a claim for benefits under Title 39, chapter 71 or 72, MCA;

(f) use of a false, fraudulent or deceptive statement in any document connected with the practice of medicine;

(g) having been subject to disciplinary action of another state or jurisdiction against a license or other authorization to practice medicine, based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for disciplinary action under Title 37, chapter 3, MCA or these rules; a certified copy of the record of the action taken by the other state or jurisdiction is evidence of unprofessional conduct;

(h) willful disobedience of a rule adopted by the board, or an order of the board regarding evaluation or enforcement of discipline of a licensee;

(i) habitual intemperance or excessive use of an addictive drug, alcohol or any other substance to the extent that the use impairs the user physically or mentally;

- (j) failing to furnish to the board or its investigators or representatives information legally requested by the board;
- (k) failing to cooperate with a lawful investigation conducted by the board;
- (l) failing to report to the board any adverse judgment, settlement or award arising from a medical liability claim or other unprofessional conduct;
- (m) obtaining a fee or other compensation, either directly or indirectly, by the misrepresentation that a manifestly incurable disease, injury or condition of a person can be cured;
- (n) abusive billing practices;
- (o) commission of an act of sexual abuse, sexual misconduct or sexual exploitation, whether or not related to the licensee's practice of medicine;
- (p) administering, dispensing, prescribing or ordering a controlled substance, as defined by the federal Food and Drug Administration or successors, otherwise than in the course of legitimate or reputable professional practice;
- (q) conviction or violation of a federal or state law regulating the possession, distribution or use of a controlled substance, as defined by the federal Food and Drug Administration or successors, whether or not an appeal is pending;
- (r) testifying in court on a contingency basis;
- (s) conspiring to misrepresent or willfully misrepresenting medical conditions improperly to increase or decrease a settlement, award, verdict or judgment;
- (t) except as provided in this subsection, practicing medicine as the partner, agent or employee of, or in joint venture with, a person who does not hold a license to practice medicine within this state; however, this does not prohibit:
 - (i) the incorporation of an individual licensee or group of licensees as a professional service corporation under Title 35, chapter 4, MCA;
 - (ii) a single consultation with or a single treatment by a person licensed to practice medicine and surgery in another state or territory of the United States or a foreign country;
 - (iii) the organization of a professional limited liability company under Title 35, chapter 8, MCA, for the providing of professional services as defined in Title 35, chapter 8, MCA;

(iv) practicing medicine as the partner, agent or employee of, or in joint venture with, a hospital, medical assistance facility or other licensed health care provider; however,

(A) the partnership, agency, employment or joint venture must be evidenced by a written agreement containing language to the effect that the relationship created by the agreement may not affect the exercise of the physician's independent judgment in the practice of medicine, and

(B) the physician's independent judgment in the practice of medicine must in fact be unaffected by the relationship, and

(C) the physician may not be required to refer any patient to a particular provider or supplier or take any other action that the physician determines not to be in the patient's best interest;

(u) failing to transfer pertinent and necessary medical records to another licensed health care provider, the patient or the patient's representative when requested to do so by the patient or the patient's legally designated representative;

(v) any other act, whether specifically enumerated or not, that in fact constitutes unprofessional conduct;

(w) failing to comply with an agreement the licensee has entered into with the program established by the board under 37-3-203(4), MCA;

(x) failing, as a medical director, to supervise, appropriately direct and train emergency medical technicians (EMTs) practicing under the licensee's supervision, according to scope of practice and current board-approved USDOT curriculum standards including revisions and board-approved statewide protocols for patient care;

(y) failing to supervise, manage, appropriately delegate and train medical assistants under the licensee's supervision, according to scope of practice and generally accepted standards of practice;

(z) failing to supervise, appropriately delegate and train physician assistants-certified practicing under the licensee's supervision, according to board-approved utilization plans, scope of practice and generally accepted standards of practice;

(aa) failing to supervise and appropriately train residents, as defined in 37-3-305, MCA, practicing under the licensee's supervision, according to scope of practice and generally accepted standards of practice; or

(ab) having voluntarily relinquished or surrendered a license or privileges or having withdrawn an application for licensure or privileges, while under investigation or prior to the granting or denial of an application in this state, or in another state or jurisdiction. (History: 37-1-319, 37-3-203, MCA; IMP, 37-1-131, 37-3-202, 37-3-305, 37-3-309, 37-3-323, MCA; NEW, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2004 MAR p. 731, Eff. 1/30/04.)

24.156.626 REVOCATION OR SUSPENSION PROCEEDINGS (1) In those cases brought pursuant to the provisions of 37-3-323, MCA, such proceedings may be initiated by any person or a member of the board by the filing of a written, signed complaint in which the charge or charges against the licensee are stated separately and with particularity. Such a complaint may be delivered to and filed with the board by any person of legal age or may be delivered to and filed with the board by the executive secretary of the board or by the attorney for the board. (History: 37-3-203, MCA; IMP, 37-3-323, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.627 REINSTATEMENT (1) The board will decide reinstatement on an individual basis, upon the facts in the case. (History: 37-3-203, MCA; IMP, 37-3-324, MCA; NEW, Eff. 12/31/74; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1990 MAR p. 1700, Eff. 8/31/90; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.628 MANAGEMENT OF INFECTIOUS WASTES (1) Each physician licensed by the board shall store, transport off the premises and dispose of infectious wastes, as defined in 75-10-1003, MCA, in accordance with the requirements set forth in 75-10-1005, MCA.

(2) Used sharps are properly packaged and labeled within the meaning of 75-10-1005(1)(a), MCA, when this is done as required by the Occupational Safety and Health Administration (OSHA). If OSHA has no such requirements, the physician shall place them in a heavy, leakproof, puncture-resistant cardboard box and secure the lid with reinforced strapping tape. The container shall bear the words "used medical sharps" on a distinctive label taped or securely glued on the container. (History: 37-1-131, 37-3-203, 75-10-1006, MCA; IMP, 75-10-1006, MCA; NEW, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

Rules 24.156.629 through 24.156.639 reserved

24.156.640 MEDICAL ASSISTANT (1) For the purpose of this rule, the following definitions apply:

(a) "Direct supervision" means the supervisor is within audible and visible reach of the person being supervised.

(b) "Office" means a location that a physician or podiatrist designates as the physician's or podiatrist's office, but excludes acute care or long term care facilities. However, the physician or podiatrist may utilize a building which houses an emergency room, acute care, or long term care facility for scheduled services.

(c) "Onsite supervision" means the supervisor is in the facility and quickly available to the person being supervised.

(d) "Supervision" means accepting responsibility for, and overseeing the medical services of, a medical assistant by telephone, radio or in person as frequently as necessary considering the location, nature of practice and experience of the medical assistant.

(2) Medical assistants shall work under the supervision of a Montana-licensed physician or podiatrist who is responsible for assigning administrative and clinical tasks to the medical assistant relating to the physician or podiatrist's practice of medicine.

(3) Physician or podiatrist supervision shall be active and continuous but does not require the physical presence of the supervising physician or podiatrist at the time and place that services are rendered so long as the physician or podiatrist is available for consultation, except that physician or podiatrist supervision shall be onsite when a medical assistant performs:

- (a) invasive procedures;
- (b) administers medicine; or
- (c) performs allergy testing.

(4) The supervising physician or podiatrist is responsible for determining the competency of a medical assistant to perform the administrative and clinical tasks assigned to the medical assistant. Assigned tasks must be consistent with the supervising physician or podiatrist's education, training, experience, and active practice. Assigned tasks must be the type that a reasonable and prudent physician (or podiatrist) would find within the scope of sound medical judgment to assign. Assigned tasks, other than those tasks enumerated in 37-3-104(1)(b), MCA, shall be routine, technical tasks for which the medical assistant has been appropriately trained. A physician (or podiatrist) may only assign tasks that the physician (or podiatrist) is qualified to perform and tasks that the physician (or podiatrist) has not been legally restricted from performing. Any tasks performed by the medical assistant will be held to the same standard that is applied to the supervising physician or podiatrist.

(a) Assigned tasks cannot be subsequently assigned to another party by the medical assistant.

(5) The supervising physician or podiatrist's office shall ensure that patients are informed when a medical assistant is seeing them and shall ensure that assigned tasks are provided in the context of an appropriate physician/patient relationship. A medical assistant shall wear a name badge that includes the title "medical assistant".

(6) A medical assistant must be a graduate of an accredited medical assisting program or possess experience, training or education sufficient, in the supervising physician or podiatrist's opinion, to perform assigned duties responsibly, safely and conscientiously. It is the responsibility of the physician (or podiatrist) to ensure that the medical assistant has the necessary education, training or experience to perform the assigned task.

(7) The following tasks may not be assigned to a medical assistant:

(a) any invasive procedures, including injections other than immunizations, in which human tissue is cut or altered by mechanical or energy forms, including electrical or laser energy or ionizing radiation, unless under the onsite supervision of a physician or podiatrist;

(b) care of an in-patient admitted to an acute care hospital facility licensed by DPHHS;

(c) conscious sedation monitoring, unless under the direct supervision of a physician or podiatrist;

(d) administering fluids or medications through an IV, unless under the direct supervision of a physician or podiatrist; and

(e) administering blood products by IV.

(8) Health care providers licensed in this state or any other jurisdiction whose licenses have been restricted, suspended, revoked or voluntarily relinquished in lieu of discipline are prohibited from working in a physician or podiatrist's office as an unlicensed medical assistant. (History: 37-3-104, 37-3-203, MCA; IMP, 37-3-104, MCA; NEW, 2006 MAR p. 759, Eff. 3/24/06.)

Subchapter 7 reserved

Subchapter 8

Telemedicine Rules

24.156.801 PURPOSE AND AUTHORITY (1) These rules are promulgated to promote the efficient administration of the provisions of the Medical Practice Act, 37-3-341 through 37-3-349, MCA, regulating the practice of medicine across state lines. (History: 37-3-203, MCA; IMP, 37-3-341, MCA; NEW, 2000 MAR p. 2967, Eff. 10/27/00; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.802 DEFINITIONS The following definitions shall apply to these rules:

(1) "Practice of telemedicine" means the practice of telemedicine as defined in 37-3-342(1), MCA.

(2) Exemptions to the practice of telemedicine are defined in 37-3-342(2), MCA.

(3) "Occasional case" means the practice of medicine across state lines occurring less than five times in a calendar year or involves fewer than five patients in a calendar year.

(4) "Board" means the Board of Medical Examiners for the state of Montana created under 2-15-1841, MCA.

(5) "Telemedicine certificate" means a certificate issued by the board to practice telemedicine which:

(a) is only issued to an applicant who meets all of the requirements of 37-3-344 and 37-3-345, MCA; and

(b) limits the licensee to the practice of telemedicine as defined in these rules and only with respect to the specialty in which the licensee is board-certified or meets the current requirements to take the examination to become board-certified and on which the licensee bases the application for a telemedicine certificate pursuant to 37-3-345(2), MCA.

(6) "Licensee" means the current holder of a telemedicine certificate. (History: 37-3-203, MCA; IMP, 37-3-342, MCA; NEW, 2000 MAR p. 2967, Eff. 10/27/00; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.803 LICENSE REQUIREMENT (1) To engage in the practice of telemedicine in the state of Montana, a person shall hold:

(a) a current telemedicine certificate issued in accordance with the provisions of 37-3-341 through 37-3-349, MCA, or the rules of the board; or

(b) a full, unrestricted and current license issued under 37-3-301, MCA, or the rules of the board. (History: 37-3-203, MCA; IMP, 37-3-343, MCA; NEW, 2000 MAR p. 2967, Eff. 10/27/00; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.804 APPLICATION FOR A TELEMEDICINE CERTIFICATE (1) An applicant for a telemedicine certificate shall:

(a) complete and return an application on a form approved by the board, together with accompanying documentation specified in 37-3-344, MCA;

(b) submit an application fee pursuant to ARM 24.156.805;

(c) submit proof of current malpractice or professional negligence insurance coverage in the amount of \$1,000,000; and

(d) satisfy all of the requirements set forth in 37-3-345, MCA. (History: 37-3-203, MCA; IMP, 37-3-344, 37-3-345, MCA; NEW, 2000 MAR p. 2967, Eff. 10/27/00; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.805 FEES (1) The following fees will be charged:

(a) The applicant shall submit an application fee of \$300 in the form of a check or money order payable to the board.

(b) The licensee shall submit a renewal fee of \$150 (on or before the date set by ARM 24.101.413) in the form of a check or money order payable to the board, together with a completed renewal.

(2) Additional standardized fees are specified in ARM 24.101.403.

(3) All application fees and renewal application fees are nonrefundable.

(History: 37-1-134, 37-1-141, 37-3-203, MCA; IMP, 37-1-134, 37-1-141, 37-3-344, 37-3-345, 37-3-347, MCA; NEW, 2000 MAR p. 2967, Eff. 10/27/00; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

24.156.806 FAILURE TO SUBMIT FEES (1) Failure of an applicant for a telemedicine certificate to submit the required application fee and properly completed form shall be grounds for the board to discontinue processing the application and to deny the application.

(2) Failure of a licensee to submit the required renewal fee and properly completed renewal form shall be grounds for the board to immediately cancel the telemedicine certificate. After cancellation of a telemedicine certificate for failure to submit the required renewal fee and form, the certificate may not be renewed, but another certificate may be issued on submission of a new application and compliance with 37-3-344 and 37-3-345, MCA. (History: 37-3-203, MCA; IMP, 37-3-347, MCA; NEW, 2000 MAR p. 2967, Eff. 10/27/00; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.807 ISSUANCE OF A TELEMEDICINE CERTIFICATE (1) The telemedicine certificate issued by the board shall contain the name of the person to whom it is issued, the address of the person, the date and number of the certificate and such other information as the board deems necessary. The address contained on the telemedicine certificate shall be the address of the licensee where all correspondence and renewal forms from the board shall be sent during the two years for which the certificate has been issued and shall be the address deemed sufficient for purposes of service of process. (History: 37-3-203, MCA; IMP, 37-3-343, MCA; NEW, 2000 MAR p. 2967, Eff. 10/27/00; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.808 RENEWALS (1) Renewal notices will be sent as specified in ARM 24.101.414.

(2) The provisions of ARM 24.101.408 apply. (History: 37-1-141, 37-3-203, MCA; IMP, 37-1-141, MCA; NEW, 2000 MAR p. 2967, Eff. 10/27/00; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

24.156.809 EFFECT OF DENIAL OF APPLICATION FOR TELEMEDICINE CERTIFICATE (1) An applicant who receives notice that the board has denied an application for a telemedicine certificate may apply for a physician's license to practice medicine in Montana. (History: 37-3-203, MCA; IMP, 37-3-347, MCA; NEW, 2000 MAR p. 2967, Eff. 10/27/00; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.810 EFFECT OF TELEMEDICINE CERTIFICATE (1) The issuance by the board of a telemedicine certificate to practice medicine across state lines subjects the licensee to the jurisdiction of the board in all matters set forth in 37-3-341 through 37-3-349, MCA, and the implementing rules and regulations of the board, including all matters related to discipline.

(2) It shall be the affirmative duty of every licensee to report to the board in writing within 15 days of the denial of hospital privileges, restriction or limitation of practice, or the initiation of any disciplinary action against the certificate or license to practice medicine by any state or territory in which the licensee is licensed.

(3) The licensee agrees, by accepting the telemedicine certificate, to produce patient medical records or other materials as requested by the board and to appear before the board or any of its screening panels following receipt of a written notice issued by the board or its authorized representative.

(4) The licensee is subject to each of the grounds for disciplinary action as provided in 37-1-316 and 37-3-348, MCA, and ARM 24.156.625, in accordance with the procedures set forth in Title 37, chapters 1 and 3, MCA, and the Montana Administrative Procedure Act.

(5) The licensee shall comply with all laws, rules, and regulations governing the maintenance of patient medical records, including patient confidentiality requirements, regardless of the state where the medical records of any patient within the state of Montana are maintained.

(6) The licensee shall notify the board of any change in licensee's address as contained on the telemedicine certificate within 30 days of such change.

(7) The licensee shall cooperate in the investigation of any possible grounds for discipline, including revocation or limitation of the certificate, by timely compliance with all inquiries and subpoenas issued by the board for evidence or information. The licensee shall provide, within 21 days of receipt of a written request from the board, clear and legible copies of requested documents, including medical records, which may be related to possible grounds for discipline, including revocation or limitation of a telemedicine certificate. Failure to timely comply with a board inquiry or subpoena or to provide clear and legible copies of requested records shall be grounds for discipline pursuant to the provisions of 37-3-348, MCA. (History: 37-3-203, MCA; IMP, 37-3-342, 37-3-348, 37-3-349, MCA; NEW, 2000 MAR p. 2967, Eff. 10/27/00; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.811 SANCTIONS (1) Any person who violates the provisions of these rules is subject to criminal prosecution for the unlicensed practice of medicine and/or injunctive or other action authorized in this state to prohibit or penalize continued practice without a license. Nothing in this rule shall be interpreted to limit or restrict the board's authority to discipline any physician licensed to practice in this state who violates the Medical Practice Act while engaging in the practice of medicine within this or any other state. (History: 37-3-203, MCA; IMP, 37-3-348, MCA; NEW, 2000 MAR p. 2967, Eff. 10/27/00; TRANS, from Commerce, 2001 MAR p. 1471.)

Subchapter 9

Osteopathic Physicians

24.156.901 FEES (REPEALED) (History: 37-1-134, MCA; IMP, 37-5-302, 37-5-303, 37-5-307, MCA; NEW, 1982 MAR p. 1391, Eff. 7/16/82; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2007 MAR p. 506, Eff. 4/27/07.)

24.156.902 APPLICATIONS (REPEALED) (History: 37-3-203, MCA; IMP, 37-5-301, MCA; Eff. 12/31/72; AMD, 1980 MAR p. 660, Eff. 2/29/80; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from ARM Title 8, Ch. 38, 1982 MAR p. 1391, Eff. 7/16/82; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2007 MAR p. 506, Eff. 4/27/07.)

24.156.903 APPROVAL OF SCHOOLS (REPEALED) (History: 37-3-203, MCA; IMP, 37-5-302, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from ARM Title 8, Ch. 38, 1982 MAR p. 1391, Eff. 7/16/82; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2007 MAR p. 506, Eff. 4/27/07.)

24.156.904 RECIPROCITY LICENSES (REPEALED) (History: 37-3-203, MCA; IMP, 37-5-303, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from ARM Title 8, Ch. 38, 1982 MAR p. 1391, Eff. 7/16/82; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2007 MAR p. 506, Eff. 4/27/07.)

24.156.905 RENEWALS (REPEALED) (History: 37-3-203, MCA; IMP, 37-5-307, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from ARM Title 8, Ch. 38, 1982 MAR p. 1391, Eff. 7/16/82; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2007 MAR p. 506, Eff. 4/27/07.)

Subchapter 10

Podiatry

Rule 24.156.1001 reserved

24.156.1002 FEES (1) The following fees will be charged:

(a) The renewal fee for a podiatrist, whether actively engaged or not, in the practice of podiatry in the state of Montana shall be:

- | | |
|---|-------|
| (i) even numbered licenses renewing for one year | \$200 |
| (ii) odd numbered licenses renewing for two years | 400 |
| (b) Endorsement or reciprocity | 325 |

(2) Additional standardized fees are specified in ARM 24.101.403. (History: 37-1-134, 37-1-141, 37-6-106, MCA; IMP, 37-1-134, 37-1-141, 37-3-203, 37-6-302, MCA; NEW, 1982 MAR p. 1392, Eff. 7/16/82; AMD, 1992 MAR p. 1607, Eff. 7/31/92; AMD, 1995 MAR p. 2480, Eff. 11/23/95; AMD, 1999 MAR p. 1766, Eff. 8/13/99; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

24.156.1003 ANKLE SURGERY CERTIFICATION (1) Ankle surgery certification will be granted to a doctor of podiatric medicine licensed to practice in Montana, or to an otherwise qualified applicant for a license to practice podiatric medicine in Montana, who makes application on forms provided by the board, and who:

- (a) submits proof of certification by the American Board of Podiatric Surgery in foot and ankle surgery or reconstructive rearfoot/ankle surgery; or
- (b) submits proof of current licensure or certification to perform ankle surgery in another state whose licensing standards at the time the license or certificate was issued were essentially equivalent, in the judgment of the board, to those of this state; or

(c) submits proof of completion of a podiatric surgical residency approved in the year of the candidate's residency by the Council on Podiatric Medical Education or the American Board of Podiatric Surgery or successor(s), and submits evidence satisfactory to the board of not fewer than 25 ankle surgeries performed by the applicant and proctored by a primary surgeon of record who is an orthopedic surgeon with foot and ankle experience or a doctor of podiatric medicine with ankle surgery certification within the five years immediately preceding the application.

(2) The applicant shall submit a nonrefundable fee of \$100 with the application for certification in ankle surgery. (History: 37-6-106, MCA; IMP, 37-6-107, MCA; NEW, 1995 MAR p. 2480, Eff. 11/23/95; AMD, 2001 MAR p. 1094, Eff. 6/22/01; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.1004 RENEWALS (1) Renewal notices will be sent as specified in ARM 24.101.414.

(2) The renewal date for a podiatry license is the date set by ARM 24.101.413.

(3) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year.

(a) Licensees with an even numbered license will renew for a one-year period.

(b) Licensees with an odd numbered license will renew for a two-year period.

(c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.

(4) The provisions of ARM 24.101.408 apply. (History: 37-1-141, 37-6-106, MCA; IMP, 37-1-141, 37-6-304, MCA; NEW, 1992 MAR p. 1607, Eff. 7/31/92; AMD, 1997 MAR p. 2197, Eff. 12/2/97; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

24.156.1005 UNPROFESSIONAL CONDUCT In addition to those forms of unprofessional conduct defined in 37-1-316, MCA, the following is unprofessional conduct for a licensee or license applicant under Title 37, chapter 6, MCA:

(1) Conviction, including conviction following a plea of nolo contendere, of an offense involving moral turpitude, whether misdemeanor or felony, and whether or not an appeal is pending;

(2) Fraud, misrepresentation, deception or concealment of a material fact in applying for or securing a license, or license renewal, or in taking an examination required for licensure; as used herein, "material" means any false or misleading statement or information;

(3) Conduct likely to deceive, defraud or harm the public;

(4) Making a false or misleading statement regarding the licensee's skill or the effectiveness or value of the medicine, treatment or remedy prescribed by the licensee or at the licensee's direction in the treatment of a disease or other condition of the body or mind;

(5) Resorting to fraud, misrepresentation or deception in the examination or treatment of a person, or in billing, giving or receiving a fee related to professional services, or reporting to a person, company, institution or organization, including fraud, misrepresentation or deception with regard to a claim for benefits under Title 39, chapter 71 or 72, MCA;

(6) Use of a false, fraudulent or deceptive statement in any document connected with the practice of podiatric medicine;

(7) Having been subject to disciplinary action of another state or jurisdiction against a license or other authorization to practice podiatric medicine, based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for disciplinary action under Title 37, chapter 6, MCA or these rules; a certified copy of the record of the action taken by the other state or jurisdiction is evidence of unprofessional conduct;

- (8) Willful disobedience of a rule adopted by the board, or an order of the board regarding evaluation or enforcement of discipline of a licensee;
- (9) Habitual intemperance or excessive use of an addictive drug, alcohol or any other substance to the extent that the use impairs the user physically or mentally;
- (10) Failing to furnish to the board or its investigators or representatives information legally requested by the board;
- (11) Failing to cooperate with a lawful investigation conducted by the board;
- (12) Failing to report to the board any adverse judgment, settlement or award arising from a medical liability claim or other unprofessional conduct;
- (13) Obtaining a fee or other compensation, either directly or indirectly, by the misrepresentation that a manifestly incurable disease, injury or condition of a person can be cured;
- (14) Abusive billing practices;
- (15) Commission of an act of sexual abuse, misconduct or exploitation related to the licensee's practice of podiatric medicine;
- (16) Administering, dispensing, prescribing or ordering a controlled substance, as defined by the federal Food and Drug Administration or successors, otherwise than in the course of legitimate or reputable professional practice;
- (17) Conviction or violation of a federal or state law regulating the possession, distribution or use of a controlled substance, as defined by the federal Food and Drug Administration or successors, whether or not an appeal is pending;
- (18) Testifying in court on a contingency basis;
- (19) Conspiring to misrepresent or willfully misrepresenting medical conditions improperly to increase or decrease a settlement, award, verdict or judgment;
- (20) Except as provided in this subsection, practicing podiatric medicine as the partner, agent or employee of, or in joint venture with, a person who does not hold a license to practice podiatric medicine within this state; however, this does not prohibit:

(a) the incorporation of an individual licensee or group of licensees as a professional service corporation under Title 35, chapter 4, MCA; or

(b) the organization of a professional limited liability company under Title 35, chapter 8, MCA, for the providing of professional services as defined in Title 35, chapter 8, MCA; or

(c) practicing podiatric medicine as the partner, agent or employee of, or in joint venture with, a hospital, medical assistance facility or other licensed health care provider; however,

(i) the partnership, agency, employment or joint venture must be evidenced by a written agreement containing language to the effect that the relationship created by the agreement may not affect the exercise of the podiatrist's independent judgment in the practice of podiatric medicine, and

(ii) the podiatrist's independent judgment in the practice of podiatric medicine must in fact be unaffected by the relationship, and

(iii) the podiatrist may not be required to refer any patient to a particular provider or supplier or take any other action that the podiatrist determines not to be in the patient's best interest;

(21) Failing to transfer pertinent and necessary medical records to another licensed health care provider, the patient or the patient's representative when requested to do so by the patient or the patient's legally designated representative;

(22) Any other act, whether specifically enumerated or not, that in fact constitutes unprofessional conduct. (History: 37-1-319, 37-6-106, MCA; IMP, 37-6-311, MCA; NEW, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.1006 MANAGEMENT OF INFECTIOUS WASTES (1) Each podiatrist licensed by the board shall store, transport off the premises and dispose of infectious wastes, as defined in 75-10-1003, MCA, in accordance with the requirements set forth in 75-10-1005, MCA.

(2) Used sharps are properly packaged and labeled within the meaning of 75-10-1005(1)(a), MCA, when this is done as required by the Occupational Safety and Health Administration (OSHA). If OSHA has no such requirements, the podiatrist shall place them in a heavy, leakproof, puncture-resistant cardboard box and secure the lid with reinforced strapping tape. The container shall bear the words "used medical sharps" on a distinctive label taped or securely glued on the container. (History: 37-1-131, 37-6-106, 75-10-1006, MCA; IMP, 75-10-1006, MCA; NEW, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

Subchapters 11 and 12 reserved

Subchapter 13

Nutrition Practice Rules

24.156.1301 DEFINITIONS As used in this subchapter, the following definitions apply:

(1) The term "act" means chapter 25 of Title 37, Montana Code Annotated, sometimes called "the Dietetics-Nutrition Practice Act of the state of Montana."

(2) Further, for the purpose of this subchapter, the definitions contained in subchapter 5 of the rules of the Montana State Board of Medical Examiners apply. (History: 37-1-131, 37-25-201, MCA; IMP, 37-25-201, MCA; NEW, 1988 MAR p. 823, Eff. 4/29/88; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.1302 FEES (1) The board has adopted the following fee payment schedule:

- | | |
|---|----------|
| (a) Initial fee | \$ 58.50 |
| (b) Renewal fee | 50 |
| (i) even numbered licenses renewing for one year | 50 |
| (ii) odd numbered licenses renewing for two years | 100 |

(2) Additional standardized fees are specified in ARM 24.101.403. (History: 37-1-134, 37-1-141, 37-25-201, MCA; IMP, 37-1-134, 37-1-141, 37-3-203, 37-25-201, 37-25-302, MCA; NEW, 1988 MAR p. 823, Eff. 4/29/88; AMD, 1992 MAR p. 1607, Eff. 7/31/92; AMD, 1995 MAR p. 2480, Eff. 11/23/95; AMD, 1997 MAR p. 2197, Eff. 12/2/97; AMD, 1999 MAR p. 1766, Eff. 8/13/99; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

24.156.1303 LICENSURE APPLICATION (1) Application forms will be provided to applicants by the board. (History: 37-1-131, 37-25-201, MCA; IMP, 37-25-302, MCA; NEW, 1988 MAR p. 823, Eff. 4/29/88; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.1304 INITIAL LICENSE (1) Each application for an initial license as a nutritionist under the act must be accompanied by:

- (a) a completed application form;
- (b) the initial license fee;
- (c) a copy of the registration by the commission;
- (d) a copy of the diploma or a complete transcript from an accredited college or university in the field of dietetics, food and nutrition or public health;
- (e) a recent photograph, taken within one year of application. (History: 37-1-131, 37-25-201, MCA; IMP, 37-25-302, MCA; NEW, 1988 MAR p. 823, Eff. 4/29/88; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.1305 RENEWALS (1) Renewal notices will be sent as specified in ARM 24.101.414.

(2) The renewal date for a nutritionist license is the date set by ARM 24.101.413.

(3) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year.

(a) Licensees with an even numbered license will renew for a one-year period.

(b) Licensees with an odd numbered license will renew for a two-year period.

(c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.

(4) Completed applications for renewal, together with renewal fees and proof of current registration by the commission must be received no later than the date set by ARM 24.101.413.

(5) The provisions of ARM 24.101.408 apply. (History: 37-1-131, 37-1-141, 37-25-201, MCA; IMP, 37-1-141, 37-25-307, MCA; NEW, 1988 MAR p. 823, Eff. 4/29/88; AMD, 1992 MAR p. 1607, Eff. 7/31/92; AMD, 1997 MAR p. 2197, Eff. 12/2/97; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

24.156.1306 PROFESSIONAL CONDUCT AND STANDARDS OF PROFESSIONAL PRACTICE (1) A licensee shall conform to generally-accepted principles and standards of dietetic practice which are those generally recognized by the profession as appropriate for the situation presented, including those promulgated or interpreted by or under the association or commission, and other professional or governmental bodies.

(2) A licensee who demonstrates appropriate education and experience may engage in the practice of diabetes education as defined and credentialed by the American Dietetic Association and the American Association of Diabetes Educators.

(3) A licensee shall maintain knowledge and skills required for continuing professional competence. (History: 37-1-131, 37-25-201, MCA; IMP, 37-25-201, 37-25-301, MCA; NEW, 1988 MAR p. 823, Eff. 4/29/88; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2008 MAR p. 807, Eff. 4/25/08.)

24.156.1307 UNPROFESSIONAL CONDUCT In addition to those forms of unprofessional conduct defined in 37-1-316, MCA, the following is unprofessional conduct for a licensee or license applicant under Title 37, chapter 25, MCA:

(1) Conviction, including conviction following a plea of nolo contendere, of an offense involving moral turpitude whether misdemeanor or felony, and whether or not an appeal is pending;

(2) Fraud, misrepresentation, deception or concealment of a material fact in applying for or securing a license, or license renewal, or in taking an examination required for licensure; as used herein, "material" means any false or misleading statement or information;

- (3) Conduct likely to deceive, defraud or harm the public;
- (4) Making a false or misleading statement regarding the licensee's skill or the effectiveness or value of the treatment, or remedy prescribed by the licensee or at the licensee's direction in the treatment of a disease or other condition of the body or mind;
- (5) Resorting to fraud, misrepresentation or deception in the examination or treatment of a person, or in billing, giving or receiving a fee related to professional services, or reporting to a person, company, institution or organization, including fraud, misrepresentation or deception with regard to a claim for benefits under Title 39, chapter 71 or 72, MCA;
- (6) Use of a false, fraudulent or deceptive statement in any document connected with the practice of dietetics-nutrition;
- (7) Having been subject to disciplinary action of another state or jurisdiction against a license or other authorization to practice dietetics-nutrition, based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for disciplinary action under Title 37, chapter 25, MCA, or these rules; a certified copy of the record of the action taken by the other state or jurisdiction is evidence of unprofessional conduct;
- (8) Willful disobedience of a rule adopted by the board, or an order of the board regarding enforcement of discipline of a licensee;
- (9) Habitual intemperance or excessive use of an addictive drug, alcohol or any other substance to the extent that the use impairs the user physically or mentally;
- (10) Failing to furnish to the board or its investigators or representatives information legally requested by the board;
- (11) Failing to cooperate with a lawful investigation conducted by the board;
- (12) Failing to report to the board any adverse judgment, settlement or award arising from a medical liability claim or other unprofessional conduct;
- (13) Obtaining a fee or other compensation, either directly or indirectly, by the misrepresentation that a manifestly incurable disease, injury or condition of a person can be cured;
- (14) Abusive billing practices;
- (15) Commission of an act of sexual abuse, misconduct or exploitation related to the licensee's practice of dietetics-nutrition;

(16) Conviction or violation of a federal or state law regulating the possession, distribution or use of any drug or any controlled substance, as defined by the federal Food and Drug Administration or successors, whether or not an appeal is pending;

(17) Testifying in court on a contingency basis;

(18) Conspiring to misrepresent or willfully misrepresenting medical conditions improperly to increase or decrease a settlement, award, verdict or judgment;

(19) Except as provided in this subsection, practicing dietetics-nutrition as the partner, agent or employee of, or in joint venture with, a person who does not hold a license to practice dietetics-nutrition within this state; however, this does not prohibit:

(a) the incorporation of an individual licensee or group of licensees as a professional service corporation under Title 35, chapter 4, MCA; or

(b) the organization of a professional limited liability company under Title 35, chapter 8, MCA, for the providing of professional services as defined in Title 35, chapter 8, MCA; or

(c) practicing dietetics-nutrition as the partner, agent or employee of, or in joint venture with, a hospital, medical assistance facility or other licensed health care provider; however,

(i) the partnership, agency, employment or joint venture must be evidenced by a written agreement containing language to the effect that the relationship created by the agreement may not affect the exercise of the nutritionist's independent judgment in the practice of dietetics-nutrition, and

(ii) the nutritionist's independent judgment in the practice of dietetics-nutrition must in fact be unaffected by the relationship, and

(iii) the nutritionist may not be required to refer any patient to a particular provider or supplier or take any other action that the nutritionist determines not to be in the patient's best interest;

(20) Failing to transfer pertinent and necessary patient records to another licensed health care provider, the patient or the patient's representative when requested to do so by the patient or the patient's legally designated representative;

(21) Practicing dietetics-nutrition as a registered or licensed nutritionist in this state without a current active Montana license; such unlicensed practice shall be grounds for denial of a license to that individual if the application is made subsequent to such conduct;

(22) Any other act, whether specifically enumerated or not, that in fact constitutes unprofessional conduct. (History: 37-1-319, 37-25-201, MCA; IMP, 37-25-308, MCA; NEW, 1996 MAR p. 269, Eff. 11/23/95; TRANS, 1996 MAR p. 2279, Eff. 8/23/96; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.1308 MANAGEMENT OF INFECTIOUS WASTES (1) Each nutritionist licensed by the board shall store, transport off the premises and dispose of infectious wastes, as defined in 75-10-1003, MCA, in accordance with the requirements set forth in 75-10-1005, MCA.

(2) Used sharps are properly packaged and labeled within the meaning of 75-10-1005(1)(a), MCA, when this is done as required by the Occupational Safety and Health Administration (OSHA). If OSHA has no such requirements, the nutritionist shall place them in a heavy, leakproof, puncture-resistant cardboard box and secure the lid with reinforced strapping tape. The container shall bear the words "used medical sharps" on a distinctive label taped or securely glued on the container. (History: 37-1-131, 37-25-201, 75-10-1006, MCA; IMP, 75-10-1006, MCA; NEW, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

Subchapter 14

Acupuncture

24.156.1401 DEFINITIONS (1) The term "gross malpractice" as used in 37-3-311, MCA, includes, but is not limited to, the following:

(a) failure to utilize sterile needle technique, as articulated by the National Commission for the Certification of Acupuncturists, or its successor. (History: 37-1-131, 37-13-201, MCA; IMP, 37-13-201, 37-13-311, 37-13-312, MCA; NEW, 1994 MAR p. 1580, Eff. 6/10/94; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.1402 FEES (1) An applicant for licensure shall remit a license fee of \$65 with his or her application.

(2) The renewal fee to practice acupuncture will be:

(a) even numbered licenses renewing for one year \$ 50

(b) odd numbered licenses renewing for two years 100

(3) Additional standardized fees are specified in ARM 24.101.403. (History: 37-1-134, 37-1-141, 37-13-201, 37-13-301, 37-13-302, 37-13-304, 37-13-305, MCA; IMP, 37-1-134, 37-1-141, 37-3-203, 37-13-302, 37-13-304, 37-13-305, MCA; NEW, Eff. 12/5/74; AMD, Eff. 5/5/75; AMD, Eff. 6/4/77; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1982 MAR p. 1389, Eff. 7/16/82; AMD, 1990 MAR p. 1700, Eff. 8/31/90; AMD, 1992 MAR p. 1607, Eff. 7/31/92; AMD, 1995 MAR p. 2480, Eff. 11/23/95; AMD, 1997 MAR p. 2197, Eff. 12/2/97; AMD, 1999 MAR p. 1766, Eff. 8/13/99; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

24.156.1403 REQUIREMENTS FOR LICENSURE (1) Applicants for licensure must meet the requirements for and pass the examination prepared and administered by the Commission for the Certification of Acupuncturists.

(2) Applicants for licensure must pass all three components of the examination in sterile needle technique administered by the National Commission for the Certification of Acupuncturists, or its successor. (History: 37-13-201, MCA; IMP, 37-13-201, MCA; NEW, Eff. 12/5/74; AMD, Eff. 5/5/75; AMD, Eff. 6/4/77; AMD, 1981 MAR p. 143, Eff. 2/14/81; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1990 MAR p. 1700, Eff. 8/31/90; AMD, 1994 MAR p. 1580, Eff. 6/10/94; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.1404 APPLICATION FOR LICENSURE (1) All applications shall be made on a printed form provided by the board and no application made otherwise will be accepted. Each applicant must provide the names of three references who are knowledgeable as to the applicant's moral character and competence as an acupuncturist. Each application shall be accompanied by a recent photograph of the applicant which has been signed by the applicant and dated as to when taken. Each applicant shall submit a sworn affidavit that he is reasonably able to communicate verbally and in writing in the English language. (History: 37-13-201, MCA; IMP, 37-13-302, MCA; NEW, Eff. 12/5/74; AMD, Eff. 5/5/75; AMD, Eff. 6/4/77; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1990 MAR p. 1700, Eff. 8/31/90; AMD, 1997 MAR p. 2197, Eff. 12/2/97; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.1405 APPROVAL OF SCHOOLS (1) Acupuncture schools or colleges which offer a minimum course of 1000 hours in recognized branches of acupuncture and are approved by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine or have any equivalent curricula as determined by the board, will be approved by the board.

(2) The board will review any questionable curricula on an individual basis, using acceptable curricula existing at the time of the individual's study as a guide for evaluation. (History: 37-13-201, MCA; IMP, 37-13-302, MCA; NEW, Eff. 12/5/74; AMD, Eff. 5/5/75; AMD, Eff. 6/4/77; AMD, 1981 MAR p. 143, Eff. 2/14/81; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1985 MAR p. 1395, Eff. 9/27/85; AMD, 1990 MAR p. 1700, Eff. 8/31/90; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.1406 CURRICULUM APPROVAL (1) Subsection 37-13-302(2)(c), MCA, means that the applicant for licensure as an acupuncturist must establish one of the following:

(a) that the applicant has graduated from a school approved by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM) and that the school offers a curriculum of at least 1000 hours of entry-level training in recognized branches of acupuncture; or

(b) that the applicant has attended a school which, although the school may not be approved by NACSCAOM, offers a curriculum which is the equivalent of a 1000 hour course of entry-level training in recognized branches of acupuncture, and thereby merits the board's approval as a basis for licensure. (History: This rule is advisory only, but may be a correct interpretation of law, 37-13-102, 37-13-201, MCA; IMP, 37-13-301, 37-13-302, 37-13-304, MCA; NEW, 1999 MAR p. 276, Eff. 2/12/99; TRANS, from Commerce, 2001 MAR p. 1471.)

Rules 24.156.1407 through 24.156.1410 reserved

24.156.1411 RENEWALS (1) Renewal notices will be sent as specified in ARM 24.101.414.

(2) The renewal date for an acupuncture license is the date set by ARM 24.101.413.

(3) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year.

(a) Licensees with an even numbered license will renew for a one-year period.

(b) Licensees with an odd numbered license will renew for a two-year period.

(c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.

(4) The provisions of ARM 24.101.408 apply. (History: 37-1-141, 37-13-201, MCA; IMP, 37-1-141, 37-13-306, MCA; NEW, 1992 MAR p. 1607, Eff. 7/31/92; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

24.156.1412 UNPROFESSIONAL CONDUCT In addition to those forms of unprofessional conduct defined in 37-1-316, MCA, the following is unprofessional conduct for a licensee or license applicant under Title 37, chapter 13, MCA:

(1) Commission of an act of sexual abuse, misconduct or exploitation. Each of the following acts constitutes sexual abuse, misconduct or exploitation, even where the patient is perceived as seductive:

(a) physical or verbal sexual contact or intercourse during the course of the professional relationship, whether in or out of the practitioner's place of business;

(b) failure to maintain appropriate boundaries;

(c) failure to provide the patient with an opportunity to undress and dress in private;

(d) failure to provide the patient with the opportunity to wear underwear or a patient gown during treatment;

(e) failure to fully drape all parts of the patient's body except that being treated; failure to obtain informed verbal consent before undraping or treating the patient's breasts, buttocks, abdomen or genitals;

(f) use of inappropriate parts of the practitioner's body to brace the patient;

(g) palpation by other than the practitioner's hands; palpation beyond that which is necessary to accomplish a competent examination or treatment;

(h) sexual repartee, innuendo, jokes or flirtation;

(i) sexual comments about the patient's person or clothing;

(j) inquiry into the patient's sexual history or behavior beyond that which is necessary for a competent examination, diagnosis or treatment. The practitioner shall not be unnecessarily intrusive; the practitioner shall not verbalize any value judgment concerning the patient's sexual history or behavior;

(k) attempting to diagnose or treat a sexual issue beyond the practitioner's scope of training or practice;

(l) failure to refer a case of suspected sexual abuse for more specialized professional help;

(2) Failure to obtain informed consent for treatment. In order to obtain informed consent, the practitioner must give the patient at least:

(a) a description of the proposed treatment, including:

(i) the body part to be treated,

(ii) the type of treatment,

(iii) the possible sensations the patient might feel,

(iv) the duration of treatment, and

(v) the possible outcome of the treatment;

(b) the practitioner's reason or rationale for the treatment proposed;

(c) the choice to accept or reject the proposed treatment, or any part of it, before or during the treatment.

(3) Failure to maintain appropriate patient charts in the English language;

(4) Failure to utilize sterile needle technique, as articulated by the National Commission for the Certification of Acupuncturists, or its successor;

(5) Conviction, including conviction following a plea of nolo contendere, of an offense involving moral turpitude, whether misdemeanor or felony, and whether or not an appeal is pending;

(6) Fraud, misrepresentation, deception or concealment of a material fact in applying for or securing a license, or license renewal, or in taking an examination required for licensure; as used herein, "material" means any false or misleading statement or information;

(7) Conduct likely to deceive, defraud or harm the public;

(8) Making a false or misleading statement regarding the licensee's skill or the effectiveness or value of the medicine, treatment or remedy prescribed by the licensee or at the licensee's direction, in the treatment of a disease or other condition of the body or mind;

(9) Resorting to fraud, misrepresentation or deception in the examination or treatment of a person, or in billing, giving or receiving a fee related to professional services, or reporting to a person, company, institution or organization, including fraud, misrepresentation or deception with regard to a claim for benefits under Title 39, chapter 71 or 72, MCA;

(10) Use of a false, fraudulent or deceptive statement in any document connected with the practice of acupuncture;

(11) Having been subject to disciplinary action of another state or jurisdiction against a license or other authorization to practice acupuncture, based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for disciplinary action under Title 37, chapter 13, MCA, or these rules; a certified copy of the record of the action taken by the other state or jurisdiction is evidence of unprofessional conduct;

(12) Willful disobedience of a rule adopted by the board, or an order of the board regarding enforcement of discipline of a licensee;

(13) Habitual intemperance or excessive use of an addictive drug, alcohol or any other substance to the extent that the use impairs the user physically or mentally;

(14) Failing to furnish to the board or its investigators or representatives information legally requested by the board;

(15) Failing to cooperate with a lawful investigation conducted by the board;

(16) Failing to report to the board any adverse judgment, settlement or award arising from an acupuncture liability claim or other unprofessional conduct;

(17) Obtaining a fee or other compensation, either directly or indirectly, by the misrepresentation that a manifestly incurable disease, injury or condition of a person can be cured;

(18) Abusive billing practices;

(19) Testifying in court on a contingency basis;

(20) Conspiring to misrepresent or willfully misrepresenting a medical condition improperly to increase or decrease a settlement, award, verdict or judgment;

(21) Except as provided in this subsection, practicing acupuncture as the partner, agent or employee of, or in joint venture with, a person who does not hold a license to practice acupuncture within this state; however, this does not prohibit:

(a) the incorporation of an individual licensee or group of licensees as a professional service corporation under Title 35, chapter 4, MCA;

(b) the organization of a professional limited liability company under Title 35, chapter 8, MCA, for the providing of professional services as defined in Title 35, chapter 8, MCA;

(c) practicing acupuncture as the partner, agent or employee of, or in joint venture with, a hospital, medical assistance facility or other licensed health care provider; however,

(i) the partnership, agency, employment or joint venture must be evidenced by a written agreement containing language to the effect that the relationship created by the agreement may not affect the exercise of the acupuncturist's independent judgment in the practice of acupuncture;

(ii) the acupuncturist's independent judgment in the practice of acupuncture must in fact be unaffected by the relationship; and

(iii) the acupuncturist may not be required to refer any patient to a particular provider or supplier or take any other action that the acupuncturist determines not to be in the patient's best interest;

(22) Failing to transfer pertinent and necessary patient records to another licensed health care provider, the patient or the patient's representative when requested to do so by the patient or the patient's legally designated representative;

(23) Any other act, whether specifically enumerated or not, that in fact constitutes unprofessional conduct. (History: 37-1-134, 37-1-136, 37-1-319, 37-13-201, MCA; IMP, 37-1-308, 37-1-309, 37-1-310, 37-1-311, 37-1-312, 37-1-316, 37-1-319, 37-13-201, 37-13-311, 37-13-312, MCA; NEW, 1993 MAR p. 1322, Eff. 6/25/93; AMD, 1994 MAR p. 1580, Eff. 6/10/94; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.1413 MANAGEMENT OF INFECTIOUS WASTES (1) Each acupuncturist licensed by the board shall store, transport off the premises, and dispose of infectious wastes, as defined in 75-10-1003, MCA, in accordance with the requirements set forth in 75-10-1005, MCA.

(2) Used sharps are properly packaged and labeled within the meaning of 75-10-1005(1)(a), MCA, when this is done as required by the Occupational Safety and Health Administration (OSHA). If OSHA has no such requirements, the acupuncturist shall place them in a heavy, leakproof, puncture-resistant cardboard box and secure the lid with reinforced strapping tape. The container shall bear the words "used medical sharps" on a distinctive label taped or securely glued on the container. (History: 37-1-131, 37-13-201, 75-10-1006, MCA; IMP, 75-10-1006, MCA; NEW, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

Subchapter 15 reserved

Subchapter 16

Physician Assistant - Scope of Practice

24.156.1601 DEFINITIONS As used in this subchapter the following definitions apply:

(1) "Direct supervision" means the supervisor is within technologically unassisted audible and visible reach of the person being supervised.

(2) "General supervision" means accepting responsibility for, and overseeing the medical services of, a physician assistant by telephone, radio, or in person as frequently as necessary considering the location, nature of practice, and experience of the physician assistant.

(3) "Nonroutine application" means an initial physician assistant license application and/or supervision agreement where the supervising physician has never supervised a Montana licensed physician assistant and/or the physician assistant has never practiced in the state of Montana. A nonroutine application shall require a teleconference interview with a current board member.

(4) "On-site supervision" means the supervisor must be in the facility and quickly available to the person being supervised.

(5) "Routine application" means a supervision agreement where the supervising physician and the physician assistant both have had approved Montana supervision agreements or utilization plans in the past. These applications shall be processed and approved by board staff. (History: 37-1-131, 37-20-202, MCA; IMP, 37-1-101, 37-20-202, MCA; NEW, 1982 MAR p. 485, Eff. 3/12/82; AMD, 1993 MAR p. 341, Eff. 3/12/93; AMD, 1994 MAR p. 1582, Eff. 6/10/94; AMD, 1999 MAR p. 277, Eff. 2/12/99; AMD, 2000 MAR p. 627, Eff. 2/25/00; AMD, 2000 MAR p. 3520, Eff. 12/22/00; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1602 BOARD POLICY (1) Ensuring the provision of quality health care to the people of Montana shall be the primary consideration of the board when administering these rules. (History: 37-20-201, MCA; IMP, 37-20-202, MCA; NEW, 1982 MAR p. 485, Eff. 3/12/82; AMD, 1993 MAR p. 341, Eff. 3/12/93; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.1603 QUALIFICATIONS OF PHYSICIAN ASSISTANT-CERTIFIED (REPEALED) (History: 37-20-201, MCA; IMP, 37-20-101, 37-20-402, MCA; NEW, 1982 MAR p. 485, Eff. 3/12/82; AMD, 1982 MAR p. 2134, Eff. 12/17/82; AMD, 1993 MAR p. 341, Eff. 3/12/93; AMD, 1994 MAR p. 1582, Eff. 6/10/94; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1604 TRAINING OF STUDENT PHYSICIAN ASSISTANTS (1) A physician assistant student training in Montana is not required to apply for licensure under these rules.

(2) A physician assistant student must train under the supervision of a physician or a physician assistant who is licensed in Montana.

(3) A physician assistant student training in Montana must:

(a) be currently enrolled in a physician assistant training program accredited by the Accreditation Review Commission on Education for the Physician Assistant or if accreditation was granted before 2001, accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs; and

(b) conspicuously wear an identification badge indicating that he or she is a "physician assistant student" whenever engaged in patient care activities. (History: 37-20-202, MCA; IMP, 37-20-202, 37-20-402, MCA; NEW, 1993 MAR p. 341, Eff. 3/12/93; AMD, 1994 MAR p. 1582, Eff. 6/10/94; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1605 FEES (REPEALED) (History: 37-1-134, 37-1-141, 37-20-201, MCA; IMP, 37-1-134, 37-1-141, 37-20-203, 37-20-302, MCA; NEW, 1982 MAR p. 485, Eff. 3/12/82; AMD, 1992 MAR p. 2375, Eff. 10/30/92; AMD, 1994 MAR p. 1582, Eff. 6/10/94; AMD, 1995 MAR p. 2480, Eff. 11/23/95; AMD, 1999 MAR p. 1766, Eff. 8/13/99; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1583, Eff. 7/1/06; REP, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1606 APPLICATION (REPEALED) (History: 37-20-201, MCA; IMP, 37-20-101, 37-20-203, 37-20-301, 37-20-402, MCA; NEW, 1982 MAR p. 485, Eff. 3/12/82; AMD, 1982 MAR p. 2134, Eff. 12/17/82; AMD, 1993 MAR p. 341, Eff. 3/12/93; AMD, 1994 MAR p. 1582, Eff. 6/10/94; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1607 TEMPORARY APPROVAL (REPEALED) (History: 37-20-201, MCA; IMP, 37-20-203, 37-20-301, MCA; NEW, 1982 MAR p. 485, Eff. 3/12/82; AMD, 1982 MAR p. 2134, Eff. 12/17/82; AMD, 1994 MAR p. 1582, Eff. 6/10/94; AMD, 2000 MAR p. 2965, Eff. 1/1/02; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1608 SCOPE OF PRACTICE (REPEALED) (History: 37-20-202, MCA; IMP, 37-20-301, MCA; NEW, 1993 MAR p. 341, Eff. 3/12/93; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1609 PRESCRIBING/DISPENSING AUTHORITY (REPEALED) (History: 37-20-201, MCA; IMP, 37-20-404, MCA; NEW, 1993 MAR p. 341, Eff. 3/12/93; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1610 UTILIZATION PLAN (REPEALED) (History: 37-20-201, MCA; IMP, 37-20-301, MCA; NEW, 1982 MAR p. 485, Eff. 3/12/82; AMD, 1993 MAR p. 395, Eff. 3/12/93; AMD, 1994 MAR p. 1582, Eff. 6/10/94; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1611 UTILIZATION PLAN - TERMINATION AND TRANSFER (REPEALED) (History: 37-20-201, MCA; IMP, 37-20-202, MCA; NEW, 1993 MAR p. 341, Eff. 3/12/93; AMD, 1994 MAR p. 1582, Eff. 6/10/94; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1612 PROHIBITIONS (REPEALED) (History: 37-20-201, MCA; IMP, 37-20-202, MCA; NEW, 1982 MAR p. 485, Eff. 3/12/82; AMD, 1993 MAR p. 341, Eff. 3/12/93; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1613 PROTOCOL (REPEALED) (History: 37-20-201, MCA; IMP, 37-20-202, 37-20-403, MCA; NEW, 1982 MAR p. 485, Eff. 3/12/82; AMD, 1993 MAR p. 341, Eff. 3/12/93; AMD, 1994 MAR p. 1582, Eff. 6/10/94; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1614 SUPERVISION OF MORE THAN ONE PHYSICIAN ASSISTANT-CERTIFIED (REPEALED) (History: 37-20-201, 37-20-202, MCA; IMP, 37-20-202, MCA; NEW, 1982 MAR p. 485, Eff. 3/12/82; AMD, 1993 MAR p. 341, Eff. 3/12/93; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1615 INFORMED CONSENT (REPEALED) (History: 37-20-201, MCA; IMP, 37-20-202, 37-20-203, MCA; NEW, 1982 MAR p. 485, Eff. 3/12/82; AMD, 1993 MAR p. 341, Eff. 3/12/93; AMD, 1994 MAR p. 1582, Eff. 6/10/94; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1616 MAINTAINING NCCPA CERTIFICATION (1) A licensee shall maintain certification by the National Commission on Certification of Physician Assistants.

(2) A licensee shall provide the board with a copy of the licensee's current certificate from the National Commission on Certification of Physician Assistants when submitting the licensee's annual renewal form each year. (History: 37-20-201, 37-20-202, MCA; IMP, 37-20-202, 37-20-301, 37-20-302, 37-20-402, MCA; NEW, 1999 MAR p. 277, Eff. 2/12/99; TRANS, from Commerce, 2001 MAR p. 1471.)

24.156.1617 APPLICATION FOR PHYSICIAN ASSISTANT LICENSE

(1) An applicant for a physician assistant license shall submit an application on a form prescribed by the department. The application must be complete and accompanied by the appropriate fees and the following information and/or documentation:

(a) applicant's current original unopened National Practitioner Data Bank (NPDB) self-query report;

(b) applicant's professional education and work experience since completing physician assistant training; and

(c) two written character references.

(2) Applicants licensed in another state or jurisdiction shall cause all states and jurisdictions in which the applicant holds or has ever held a license to submit a current verification of licensure directly to the board on behalf of the applicant.

(3) Applicants whose applications are received, processed, and determined to be incomplete will be sent a letter from the board office specifying the deficiencies, which may include but not be limited to appropriate fees, verifications, character references, and any other supplemental information the board or its designee deems appropriate. The incomplete application will be held for a period of one year at which time the application will be treated as an expired application and all fees will be forfeited. The applicant may correct any deficiencies, submit missing or additional information, and complete any requirements necessary to complete the application within one year from the date the initial application is received in the board office.

(4) The applicant may voluntarily withdraw the application prior to the one-year deadline set forth in (3) by submitting a request to withdrawal in writing to the board office. All application fees submitted will be forfeited.

(5) After withdrawal of an application, the applicant will be required to submit a new application, including supporting documentation and appropriate fees to begin the licensing and verification process again.

(6) Completed applications shall be reviewed by the board or its designee, which may request such additional information or clarification of information provided in the application as deemed reasonably necessary. (History: 37-1-131, 37-20-202, MCA; IMP, 37-20-202, 37-20-203, 37-20-302, 37-20-402, MCA; NEW, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1618 PHYSICIAN ASSISTANT FEES (1) The following fees must be paid in connection with physician assistant licensure:

(a) license application fee	\$325
(b) 90-day temporary license fee	100
(c) active renewal fee (2006)	100
(d) active biennial renewal (2007)	200
(e) inactive renewal fee (2006)	50
(f) inactive biennial renewal fee (2007)	100
(g) supervision agreement fee	25

(2) Licensees desiring to activate an inactive physician assistant license must contact the board and pay an activation fee of \$100 and affirm that they have a current NCCPA certification.

(3) All fees provided for in this rule are nonrefundable and are not prorated for portions of the licensing period. (History: 37-1-134, 37-20-202, MCA; IMP, 37-1-134, MCA; NEW, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1619 RENEWALS (1) Renewal notices will be sent as specified in ARM 24.101.414.

(2) The renewal date for a physician assistant license is the date set by ARM 24.101.413.

(3) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year.

(a) Licensees with an even numbered license will renew for a one-year period.

(b) Licensees with an odd numbered license will renew for a two-year period.

(c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.

(4) The provisions of ARM 24.101.408 apply. (History: 37-1-141, 37-20-202, MCA; IMP, 37-1-141, 37-20-302, MCA; NEW, 2006 MAR p. 1583, Eff. 7/1/06.)

24.156.1620 PHYSICIAN ASSISTANT LICENSE RENEWAL (1) Physician assistant licenses are issued on a biennial renewal cycle beginning January 1, 2007. For the renewal cycle in 2007, licensees whose licenses end in an odd number will renew for two years and pay the full renewal fee. Licensees whose licenses end in an even number will renew for one year and pay half of the renewal fee.

(2) Except as provided in (3), to renew an active physician assistant license, the licensee shall:

(a) submit a completed license renewal application through electronic means or on a form prescribed and supplied by the department;

(b) affirm that the physician assistant possesses a current National Commission on the Certification of Physician Assistants (NCCPA) certification;

(c) self report any pending complaints or imposed disciplinary action or sanctions taken by another jurisdiction;

(d) provide current information regarding name and address changes; and

(e) submit payment of the renewal fee set in ARM 24.156.1618.

(3) Inactive licensees shall comply with (2)(a), (c), (d), and (e) of this rule to renew an inactive license.

(4) Incomplete renewal applications will be returned to the licensee and will not be considered received by the board.

(5) The board shall conduct a random audit of NCCPA certification following each renewal period. (History: 37-1-131, 37-20-202, MCA; IMP, 37-1-141, 37-20-202, 37-20-203, 37-20-302, 37-20-402, MCA; NEW, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1621 OBLIGATION TO REPORT TO BOARD (1) A physician assistant shall report to the board within three months from the date of a final judgment, order, or agency action, all information related to malpractice, misconduct, criminal, or disciplinary action in which the physician assistant or the physician assistant's supervisor, based on the physician assistant's conduct, is a named party.

(2) A physician assistant shall, within ten days of receipt of a complaint from the board, provide the board with the name of the supervising physician who is responsible under the supervision agreement to which the complaint is related.

(3) A physician assistant with suspected or known impairment shall self-report to the board. In lieu of reporting to the board, the physician assistant may self-report to the board-endorsed professional assistance program.

(4) A physician assistant is obligated to report suspected or known impairment of other health care providers to the appropriate licensing board, agency, or in lieu of the board or agency, may report to the endorsed professional assistance program. (History: 37-1-131, 37-1-319, 37-20-202, MCA; IMP, 37-1-131, 37-3-401, 37-3-405, MCA; NEW, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1622 SUPERVISION OF PHYSICIAN ASSISTANT (1) A supervising physician may provide the following types of supervision to a physician assistant:

- (a) direct supervision;
- (b) on-site supervision; or
- (c) general supervision.

(2) The supervising physician shall meet face-to-face with each physician assistant supervised a minimum of once a month for the purposes of discussion, education, and training, to include but not be limited to practice issues, patient care, and chart reviews in accordance with ARM 24.156.1623.

(3) A supervising physician may supervise more than one physician assistant if the supervising physician:

- (a) agrees to supervise more than one physician assistant by signing and filing multiple supervision agreements with the board;
- (b) provides appropriate and real time means of communication or back up supervision for the physician assistants;
- (c) determines the appropriate level supervision (direct, on-site, or general), based on the physician assistant's education, training, and experience; and
- (d) assumes professional and legal responsibility for all physician assistants under the supervising physician's supervision regardless of the varying types of supervision. (History: 37-20-202, MCA; IMP, 37-20-101, 37-20-301, 37-20-403, MCA; NEW, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1623 CHART REVIEW (1) The supervising physician shall review a minimum of 10 percent of the physician assistant charts on at least a monthly basis.

(2) Chart review for a physician assistant having less than one year of full time practice experience from the date of initial licensure must be 100 percent for the first three months of practice, and then may be reduced to not less than 25 percent for the next three months, on a monthly basis, for each supervision agreement.

(3) The supervising physician shall countersign and date all written entries that have been chart reviewed and shall document any amendments, modifications, or guidance provided.

(4) Chart review for a physician assistant who has been issued a probationary license must be 100 percent on a monthly basis, unless the board terminates the probationary period. (History: 37-20-202, MCA; IMP, 37-20-101, 37-20-301, MCA; NEW, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1624 PATIENT RIGHTS (1) For the purposes of implementing this chapter, if the patient is being medically cared for or treated by a physician assistant:

(a) The patient may request to be treated or seen by the supervising physician in lieu of the physician assistant, if the supervising physician is available.

(b) If the supervising physician is not available, the patient must be given an explanation for the unavailability of the supervising physician and the patient's request and explanation must be documented in the patient's chart at the time of the request. The patient must also be given the opportunity to be treated by the supervising physician when the supervising physician is available.

(c) The physician assistant shall report to the supervising physician the patient's request to be seen or treated by the supervising physician. (History: 37-20-202, MCA; IMP, 37-20-101, 37-20-301, MCA; NEW, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1625 UNPROFESSIONAL CONDUCT (1) In addition to those forms of unprofessional conduct defined in 37-1-316, MCA, the following is unprofessional conduct for a licensee or license applicant under Title 37, chapter 20, MCA:

(a) conviction, including conviction following a plea of nolo contendere, of an offense involving moral turpitude, whether misdemeanor or felony, and whether or not an appeal is pending;

(b) conduct likely to deceive, defraud or harm the public, including but not limited to practicing while subject to a physical or mental condition which renders the licensee unable to safely engage in the practice of medicine;

(c) making a false or misleading statement regarding the licensee's skill or the effectiveness or value of the medicine, treatment, or remedy prescribed by the licensee or at the licensee's direction in the treatment of a disease or other condition of the body or mind;

(d) resorting to fraud, misrepresentation, or deception in the examination or treatment of a person, or in billing, giving or receiving a fee related to professional services, or reporting to a person, company, institution or organization, including fraud, misrepresentation, or deception with regard to a claim for benefits under Title 39, chapter 71 or 72, MCA;

(e) violation of any section in Title 37, chapter 20, MCA, and/or any rule adopted by the board to implement Title 37, chapters 1 or 20, MCA, any order of the board regarding enforcement of discipline of a licensee, or any term, condition or limitation imposed on the licensee in a utilization plan;

(f) habitual intemperance or excessive use of an addictive drug, alcohol, or any other substance to the extent that the use impairs the user physically or mentally; this provision does not apply to a licensee who is maintaining an approved therapeutic regimen as described in 37-3-203, MCA;

(g) failing to furnish to the board or its investigators or representatives information legally requested by the board;

(h) failing to cooperate with a lawful investigation conducted by the board;

(i) failing to report to the board any adverse judgment, settlement or award arising from a medical liability claim or other unprofessional conduct;

(j) obtaining a fee or other compensation, either directly or indirectly, by the misrepresentation that a manifestly incurable disease, injury, or condition of a person can be cured;

(k) commission of an act of sexual abuse, misconduct, or exploitation related to the licensee's practice of medicine;

(l) administering, dispensing, prescribing, or ordering a controlled substance, as defined by the federal Food and Drug Administration or successors, other than in the course of legitimate or reputable professional practice;

(m) conviction or violation of a federal or state law regulating the possession, distribution, or use of a controlled substance, as defined by the federal Food and Drug Administration or successors, whether or not an appeal is pending;

(n) testifying in a legal proceeding on a contingency basis;

(o) conspiring to misrepresent or willfully misrepresenting medical conditions improperly to increase or decrease a settlement, award, verdict, or judgment;

(p) except as provided in this subsection, practicing medicine as the partner, agent, or employee of, or in joint venture with, a person who does not hold a license to practice medicine within this state; however, this does not prohibit:

(i) the incorporation of an individual licensee or group of licensees as a professional service corporation under Title 35, chapter 4, MCA; or

(ii) the organization of a professional limited liability company under Title 35, chapter 8, MCA, for the providing of professional services as defined in Title 35, chapter 8, MCA; or

(iii) practicing medicine as the partner, agent or employee of, or in joint venture with, a hospital, medical assistance facility or other licensed health care provider; however,

(A) the partnership, agency, employment or joint venture must be evidenced by a written agreement containing language to the effect that the relationship created by the agreement may not affect the exercise of the physician's independent judgment in the practice of medicine, and

(B) the physician's independent judgment in the practice of medicine must in fact be unaffected by the relationship, and

(C) neither the physician nor the physician assistant may be required to refer any patient to a particular provider or supplier or take any other action that the physician or physician assistant determines not to be in the patient's best interest;

(q) failing to transfer pertinent and necessary medical records to another licensed health care provider, the patient or the patient's representative when requested to do so by the patient or the patient's legally designated representative, in accordance with Title 50, chapter 16, MCA;

- (r) promoting the sale of services, goods, appliances or drugs in such a manner as to exploit the patient for the financial gain of the licensee or a third-party;
- (s) willfully harassing, abusing, or intimidating a patient, either physically or verbally;
- (t) failing to maintain a record for each patient which accurately reflects the evaluation, diagnosis, and treatment of the patient;
- (u) failing to exercise appropriate supervision over persons who provide health care under the supervision of the licensee;
- (v) acting in such a manner as to present a danger to public health or safety, or to any patient including, but not limited to, incompetence, negligence, or malpractice;
- (w) having voluntarily relinquished or surrendered a professional or occupational license, certificate, or registration in this state, or in another state or jurisdiction;
- (x) having withdrawn an application for licensure, certification, or registration while under investigation or prior to a determination of the completed application in this state, or in another state or jurisdiction;
- (y) failing to furnish to the board or its designee information requested by the board;
- (z) filing a complaint with, or providing information to, the board which the licensee knows, or ought to know, is false or misleading. This provision does not apply to any filing of a complaint or providing information to the board when done in good faith under 37-1-308, MCA;
- (aa) commission of any act of sexual abuse, misconduct or exploitation by the licensee whether or not related to the practice;
- (ab) falsifying and altering patient records, intentionally documenting patient records inaccurately, failing to appropriately and timely document patient records;
- (ac) diversion of a medication for any purpose or a violation of state or federal laws governing the administration of medications;
- (ad) failing to comply with any agreement with the board, required by the board, or with the endorsed professional assistance program contracted by the board, the licensee has entered into;
- (ae) failing to submit to the board a completed supervision agreement prior to commencing physician assistant practice in the state of Montana;
- (af) failing to maintain and/or provide copies on request, pursuant 37-1-301, MCA, of the physician assistant's current duties and delegation agreement; and
- (ag) any other act, whether specifically enumerated or not, that in fact constitutes unprofessional conduct. (History: 37-1-319, 37-20-202, MCA; IMP, 37-1-319, 37-3-202, 37-20-403, MCA; NEW, 1995 MAR p. 2480, Eff. 11/23/95; AMD, 1999 MAR p. 277, Eff. 2/12/99; TRANS, from Commerce, 2001 MAR p. 1471; AMD, 2006 MAR p. 1958, Eff. 8/11/06.)

24.156.1626 MANAGEMENT OF INFECTIOUS WASTES (1) Each physician assistant-certified licensed by the board shall store, transport off the premises, and dispose of infectious wastes, as defined in 75-10-1003, MCA, in accordance with the requirements set forth in 75-10-1005, MCA.

(2) Used sharps are properly packaged and labeled within the meaning of 75-10-1005(1)(a), MCA, when this is done as required by the Occupational Safety and Health Administration (OSHA). If OSHA has no such requirements, the physician assistant-certified shall place them in a heavy, leakproof, puncture-resistant cardboard box and secure the lid with reinforced strapping tape. The container shall bear the words "used medical sharps" on a distinctive label taped or securely glued on the container. (History: 37-1-131, 37-20-201, 37-20-202, 75-10-1006, MCA; IMP, 75-10-1006, MCA; NEW, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471.)

Subchapter 17 reserved

Subchapter 18

Emergency Medical Technician General

24.156.1801 DEFINITIONS (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1986 MAR p. 1073, Eff. 6/27/86; AMD, 1988 MAR p. 2374, Eff. 11/11/88; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.1802 EMERGENCY MEDICAL SERVICES BUREAU - DUTIES (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1988 MAR p. 2374, Eff. 11/11/88; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.1803 APPLICATION - PROGRAM APPROVAL (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, 50-6-204, 50-6-205, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1986 MAR p. 1073, Eff. 6/27/86; AMD, 1988 MAR p. 2374, Eff. 11/11/88; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.1804 CANDIDATES - CERTIFICATION (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, 50-6-204, 50-6-205, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1986 MAR p. 1073, Eff. 6/27/86; AMD, 1988 MAR p. 2374, Eff. 11/11/88; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, 1/30/04.)

24.156.1805 EQUIVALENCY (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, 50-6-204, 50-6-205, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1986 MAR p. 1073, Eff. 6/27/86; AMD, 1988 MAR p. 2374, Eff. 11/11/88; AMD, 1991 MAR p. 2027, Eff. 11/1/91; AMD, 1996 MAR p. 144, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.1806 SUSPENSION OR REVOCATION OF CERTIFICATION (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 37-1-131, 50-6-203, 50-6-204, 50-6-205, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1986 MAR p. 1073, Eff. 6/27/86; AMD, 1988 MAR p. 2374, Eff. 11/11/88; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.1807 MANAGEMENT OF INFECTIOUS WASTES (REPEALED) (History: 37-1-131, 50-6-203, 75-10-1006, MCA; IMP, 75-10-1006, MCA; NEW, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04; REP, 2004 MAR p. 188, Eff. 1/30/04.)

Subchapter 19

Emergency Medical Technician-Basic

24.156.1901 EMT-BASIC: ACTS ALLOWED (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-204, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1988 MAR p. 2374, Eff. 11/11/88; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.1902 EMT-BASIC: COURSE REQUIREMENTS (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, 50-6-204, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1986 MAR p. 1073, Eff. 6/27/86; AMD, 1988 MAR p. 2374, Eff. 11/11/88; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.1903 EMT-BASIC: STUDENT PREREQUISITES (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, 50-6-204, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1988 MAR p. 2374, Eff. 11/11/88; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.1904 EMT-BASIC: CERTIFICATION (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, 50-6-204, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1988 MAR p. 2374, Eff. 11/11/88; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.1905 EMT-BASIC: RECERTIFICATION (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, 50-6-204, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1988 MAR p. 2374, Eff. 11/11/88; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

Subchapter 20

Emergency Medical Technician-Advanced

24.156.2001 EMT-ADVANCED: ACTS ALLOWED (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, 50-6-205, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1988 MAR p. 2374, Eff. 11/11/88; AMD, 1995 MAR p. 2480, Eff. 11/23/95; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.2002 EMT-ADVANCED: COURSE REQUIREMENTS (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, 50-6-205, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1988 MAR p. 2374, Eff. 11/11/88; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.2003 EMT-ADVANCED: STUDENT ELIGIBILITY (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, 50-6-205, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1988 MAR p. 2374, Eff. 11/11/88; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.2004 EMT-ADVANCED: CERTIFICATION (REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, 50-6-204, 50-6-205, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; AMD, 1988 MAR p. 2374, Eff. 11/11/88; AMD, 1991 MAR p. 2027, Eff. 11/1/91; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.2005 EMT-ADVANCED: RECERTIFICATION (REPEALED) (History: 50-6-203, MCA; IMP, 50-6-205, MCA; NEW, 1983 MAR p. 475, Eff. 5/13/83; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

Rules 24.156.2006 through 24.156.2010 reserved

24.156.2011 EMT-DEFIBRILLATION: ACTS ALLOWED (REPEALED) (History: 50-6-203, MCA; IMP, 50-6-204, MCA; NEW, 1986 MAR p. 1073, Eff. 6/27/86; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.2012 EMT-DEFIBRILLATION: COURSE REQUIREMENTS (REPEALED) (History: 50-6-203, MCA; IMP, 50-6-204, MCA; NEW, 1986 MAR p. 1073, Eff. 6/27/86; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.2013 EMT-DEFIBRILLATION: STUDENT ELIGIBILITY

(REPEALED) (History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, 50-6-204, MCA; NEW, 1986 MAR p. 1073, Eff. 6/27/86; AMD, 1988 MAR p. 2374, Eff. 11/11/88; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

24.156.2014 EMT-DEFIBRILLATION: CERTIFICATION (REPEALED)

(History: 37-1-131, 50-6-203, MCA; IMP, 50-6-203, 50-6-204, MCA; NEW, 1986 MAR p. 1073, Eff. 6/27/86; AMD, 1988 MAR p. 2374, Eff. 11/11/88; TRANS, from Commerce, 2001 MAR p. 1471; REP, 2004 MAR p. 188, Eff. 1/30/04.)

Subchapters 21 through 26 reserved

Subchapter 27

Emergency Medical Technicians

24.156.2701 DEFINITIONS For purposes of the rules set forth in this subchapter, the following definitions apply:

(1) "Advanced life support" or "ALS" means any provider that functions at any endorsement level above EMT-B.

(2) "Approved course" means a course of instruction that meets the specifications and requirements for a particular level or endorsement for EMT training approved by the board or its designee.

(3) "Approved program" means a multiple of approved courses offered by an entity and approved by the board or its designee.

(4) "Basic life support" or "BLS" means any provider that functions at the endorsement level of:

(a) EMT-F;

(b) EMT-F with any endorsements; or

(c) EMT-B without any endorsements.

(5) "Board" means the Board of Medical Examiners.

(6) "Clinical experience" means supervised instruction, observation, and practice in a patient care setting.

(7) "Clinical preceptor" means an individual trained to a level greater than the student, who is responsible for supervising and teaching the student in a clinical setting under the supervision of the medical director or lead instructor in the case of an EMT-basic course.

(8) "Curriculum" means the combination of instructor lesson plans, course guides, and student study guides prepared by the United States Department of Transportation (USDOT) and commonly known as the "National Standard Curriculum" (NSC).

(9) "Emergency medical service" or "EMS" means out of hospital care and transportation furnished by a combination of persons licensed by the board and resources that are licensed by the Department of Public Health and Human Services pursuant to Title 50, chapter 6, MCA.

(10) "Emergency medical technician" or "EMT" means any out of hospital emergency care personnel licensed by the board.

(11) "Emergency medical technician - basic" or "EMT-B" means an individual who is licensed by the board as an EMT-B.

(12) "Emergency medical technician - first responder" or "EMT-F" means an individual who is licensed by the board as an EMT-F.

(13) "Emergency medical technician - intermediate" or "EMT-I" means an individual who is licensed by the board as an EMT-I.

(14) "Emergency medical technician - paramedic" or "EMT-P" means an individual who is licensed by the board as an EMT-P.

(15) "Lead instructor" means a person who is licensed by the board and authorized to offer and conduct EMT courses. The lead instructor is under the supervision of the medical director.

(16) "Medical director" means an unrestricted Montana licensed physician or physician assistant who is responsible professionally and legally for providing medical oversight to a licensed EMT and/or for the training provided in an approved program/course.

(17) "NPDB" means the National Practitioner Databank established by Public Law 99-660 (42 USC 11101, et seq.).

(18) "NREMT" means the National Registry of Emergency Medical Technicians, an independent, not-for-profit, nongovernmental certification agency based in Columbus, Ohio.

(19) "On-line medical direction" means real-time interactive medical direction, advice, or orders to EMTs from an unrestricted Montana licensed physician or physician assistant who is supervised by the medical director.

(20) "Statewide protocols" means a written, standardized manner of administering patient care statewide, approved by the board. (History: 37-3-203, 50-6-203, MCA; IMP, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04; AMD, 2007 MAR p. 507, Eff. 4/27/07; AMD, 2007 MAR p. 1813, Eff. 11/9/07.)

Rules 24.156.2702 through 24.156.2704 reserved

24.156.2705 UNPROFESSIONAL CONDUCT (1) In addition to those forms of unprofessional conduct defined in 37-1-316, MCA, the following are considered unprofessional conduct for a licensee or license applicant under Title 50, chapter 6, part 2, MCA:

(a) conviction, including conviction following a plea of nolo contendere, of an offense involving moral turpitude, whether a misdemeanor or felony, and whether or not an appeal is pending;

(b) conduct likely to deceive, defraud, or harm the public including but not limited to practicing while subject to a physical or mental condition which renders the licensee unable to safely engage in activities required of a licensee under this subchapter;

(c) acting in such a manner as to present a danger to public health or safety, or to any patient including but not limited to incompetence, negligence, or malpractice;

(d) making a false or misleading statement regarding the licensee's skill in connection with the activities required of a licensee under this subchapter;

(e) use of a false, fraudulent, or deceptive statement, whether written or verbal, in connection with the activities required of a licensee under this subchapter;

(f) having been subject to disciplinary action of another state or jurisdiction against a license or other authorization, based upon acts or conduct by the licensee similar to acts or conduct that would constitute grounds for disciplinary action under Title 37, chapter 1, MCA, or rules under this subchapter. A report from the NPDB or a certified copy of the record of the action taken by the other state or jurisdiction is evidence of unprofessional conduct;

(g) having voluntarily relinquished or surrendered a professional or occupational license, certificate, or registration in this state, or in another state or jurisdiction;

(h) having withdrawn an application for licensure, certification, or registration, while under investigation or prior to a determination of the completed application in this state, or in another state or jurisdiction;

(i) failure to practice within the scope of practice of the EMT level and endorsements;

(j) failure to practice within adopted statewide and/or local protocols, policies, and procedures established and approved by the board and medical director;

(k) failing to maintain continuous NREMT registration while licensed as an EMT in the state of Montana;

(l) willful disobedience of the provisions of Title 37, chapter 1, MCA, any rule adopted by the board, or any order of the board regarding enforcement of discipline of a licensee;

(m) habitual intemperance or excessive use of an addictive drug, alcohol, or any other substance to the extent that the use impairs the user physically or mentally; this provision does not apply to a licensee who is in compliance with an approved therapeutic regimen as described in 37-3-203, MCA;

(n) failing to furnish to the board or its designee information requested by the board or a response to an inquiry;

(o) failing to cooperate with a lawful investigation conducted by the board;

(p) failing to comply with any statute or rule under the Board of Medical Examiner's jurisdiction;

(q) filing a complaint with, or providing information to, the board which the licensee knows, or ought to know, is false or misleading. This provision does not apply to any filing of complaint or providing information to the board when done in good faith under 37-1-308, MCA;

(r) failing to report to the board any adverse judgment or award arising from a medical liability claim or other unprofessional conduct;

- (s) commission of any act of sexual abuse, misconduct, or exploitation by the licensee whether or not related to the practice;
- (t) failing to exercise technical competence in carrying out EMT care;
- (u) testifying in a legal proceeding on a contingency fee basis;
- (v) falsifying and altering patient records or trip reports, intentionally documenting patient records or trip reports incorrectly, failing to document patient records, or prepare trip reports;
- (w) diversion of a medication for any purpose or a violation of state or federal laws governing the administration of medications;
- (x) failing, as a clinical preceptor or lead instructor, to supervise, manage, or train students practicing under the licensee's supervision, according to:
 - (i) scope of practice;
 - (ii) generally accepted standards of patient care;
 - (iii) board-approved USDOT curriculum including revisions; and
 - (iv) statewide protocols, policies, and procedures.
- (y) willfully harassing, abusing, or intimidating a patient, either physically or verbally;
- (z) practicing as an EMT at any level without a current, active Montana license at that level;
- (aa) failing to comply with any agreement the licensee has entered into with a program established by the board under 37-3-203, MCA; and
- (ab) any other act, whether specifically enumerated or not that in fact constitutes unprofessional conduct. (History: 50-6-203, MCA; IMP, 37-1-131, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04; AMD, 2007 MAR p. 1813, Eff. 11/9/07.)

Rules 24.156.2706 through 24.156.2710 reserved

24.156.2711 EMT-LICENSURE QUALIFICATIONS (1) The board shall license an applicant as an EMT at the appropriate level, if the applicant:

- (a) successfully completes a board approved EMT course of instruction;
- (b) possesses current NREMT registration for the appropriate level of licensure or higher, except for EMT-Fs who have maintained continuous licensure prior to January 1, 2004;
- (c) provides all the information necessary to establish eligibility for licensure according to the licensure requirements as specified by the board or its designee;
- (d) possesses a high school diploma or equivalency; and
- (e) is 18 years of age or older. (History: 37-3-203, 50-6-203, MCA; IMP, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04.)

Rule 24.156.2712 reserved

24.156.2713 EMT LICENSE APPLICATION (1) An applicant for an EMT license, at any level, shall submit an application on a form prescribed by the board. The application must be complete and accompanied by the appropriate fees and the following documentation:

- (a) applicant's verification of course completion for the appropriate level and/or endorsement levels for which the applicant is applying;
- (b) proof the applicant possesses a high school diploma or its equivalent;
- (c) a copy of the applicant's birth certificate or other verifiable evidence of the applicant's date of birth, such as a driver's license;
- (d) a current NREMT registration card equal to or greater than the level for which the applicant is applying; and
- (e) an original NPDB self-query.

(2) Incomplete applications will be returned. The applicant may correct any deficiencies, complete any requirements necessary for licensure, and resubmit the application to the board office. Failure to resubmit the deficient application within one year from the date of the original submission will be treated as a voluntary withdrawal of the application and all fees will be forfeited.

(3) The applicant may voluntarily withdraw the application prior to the one-year deadline set forth in (2) by submitting a withdrawal in writing to the board. All application fees submitted will be forfeited.

(4) After withdrawal of an application, the applicant will be required to submit a new application, including supporting documentation and appropriate fees to begin the licensing and verification process.

(5) Completed applications will be reviewed by the board or its designee, which may request such additional information or clarification of information provided in the application as it deems reasonably necessary. (History: 50-6-203, MCA; IMP, 37-1-104, 37-1-131, 37-3-203, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04; AMD, 2007 MAR p. 1813, Eff. 11/9/07.)

Rule 24.156.2714 reserved

24.156.2715 EQUIVALENT EDUCATION (1) In order for the board to recommend to the NREMT successful course completion, the course for an individual must have been either:

- (a) an EMT educational program reviewed and approved by the board; or
- (b) determined to be "substantially equivalent" as defined by the board. The individual requesting review of their educational program must possess a currently active EMT license or certification to practice in good standing in another state.

(2) For the purposes of 37-1-304, MCA, the board defines "substantially equivalent" as approved training in accordance with board-approved USDOT curriculum standards including revisions and statewide protocols, policies, and procedures or, in the opinion of the board, completed training, experience, and passage of an examination equivalent to current board standards. Work experience obtained in the profession will not be considered as the sole basis of the applicant's qualifications. (History: 50-6-203, MCA; IMP, 37-1-131, 37-1-304, 37-3-203, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04; AMD, 2007 MAR p. 1813, Eff. 11/9/07.)

Rule 24.156.2716 reserved

24.156.2717 EMT LICENSE RENEWAL (1) Renewal notices will be sent as specified in ARM 24.101.414.

(2) EMT licenses are issued on a biennial renewal cycle. EMT licenses must be renewed on or before the date set by ARM 24.101.413 of the last year of the two-year cycle.

(3) Except as provided in (4), in order to renew an EMT license, the licensee must:

- (a) submit a license renewal application on a form or through electronic means prescribed and supplied by the board;

- (b) submit current NREMT registration at the level equal to or greater than the licensed level; and

- (c) submit payment of the renewal fee set in ARM 24.156.2731.

(4) An individual licensed prior to January 1, 2004, as a first responder or first responder ambulance, and wishing to renew the license as an EMT-F, may either:

- (a) become NREMT registered; or

- (b) complete a 16-hour board-approved USDOT curriculum refresher course each renewal period. The licensee shall provide verification of completion to the board upon request.

(5) Incomplete renewal applications will be returned to the licensee and will not be considered received by the board.

(6) The provisions of ARM 24.101.408 apply. (History: 37-1-141, 50-6-203, MCA; IMP, 37-1-131, 37-1-141, 37-1-306, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 1813, Eff. 11/9/07.)

Rule 24.156.2718 reserved

24.156.2719 EXPIRED LICENSE (1) An expired EMT license may be renewed upon completion of an expired license renewal application. To renew an expired license the applicant shall:

(a) complete an expired license renewal application and submit it to the board;

(b) pay the license fee plus late penalty fee as specified in ARM 24.101.403 for each year the license has expired up to two years;

(c) submit a current NPDB self-query; and

(d) submit a current NREMT certification.

(2) The provisions of ARM 24.101.408 apply. (History: 37-1-141, 37-3-203, 50-6-203, MCA; IMP, 37-1-141, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04; AMD, 2006 MAR p. 1583, Eff. 7/1/06.)

Rules 24.156.2720 through 24.156.2730 reserved

24.156.2731 FEES (1) The following fees must be paid in connection with EMT licensure:

(a) EMT-F application fee	\$20
(b) EMT-B application fee	30
(c) EMT-I application fee	40
(d) EMT-P application fee	60
(e) endorsement application fee	10
(f) EMT-F biennial renewal fee	20
(g) EMT-B biennial renewal fee	30
(h) EMT-I biennial renewal fee	40
(i) EMT-P biennial renewal fee	60
(j) program approval	50
(k) course approval	15

(2) Additional standardized fees are specified in ARM 24.101.403.

(3) All fees provided for in this rule are nonrefundable and are not prorated for portions of the licensing period. (History: 37-1-134, 37-1-141, 50-6-203, MCA; IMP, 37-1-134, 37-1-141, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2007 MAR p. 1813, Eff. 11/9/07.)

Rules 24.156.2732 through 24.156.2740 reserved

24.156.2741 EMT TRAINING PROGRAM/COURSE APPLICATION AND APPROVAL (1) An individual, corporation, partnership, or any other organization may not initiate or conduct any initial courses for EMT instruction without prior approval of the board or its designee.

(2) Program or course approval applications must be submitted on a form prescribed by the board with appropriate fees. The application must designate a medical director and lead instructor.

(3) Completed applications will be reviewed for compliance with board statutes, rules, board-approved USDOT curriculum including revisions and statewide protocols, policies, and procedures. The board or its designee may request such additional information or clarification of information provided in the application as it deems reasonably necessary.

(4) Incomplete applications will be returned. The medical director and/or lead instructor may correct any deficiencies, complete any requirements necessary for course approval at the level applied for, and resubmit the application to the board. Failure to resubmit the application within one year will be treated as a voluntary withdrawal of the application and all fees will be forfeited.

(5) The medical director and/or lead instructor may voluntarily withdraw the course approval application prior to the one-year deadline provided in (4), by writing to the board. All fees submitted will be forfeited.

(6) After withdrawal of an application, a new program or course approval application may be submitted including all supporting documentation and appropriate fees to begin the course approval process.

(7) The board or its designee shall approve EMT training courses that comply with current board-approved USDOT curriculum including revisions and statewide protocols, policies, and procedures.

(a) Program approvals of multiple courses offered by a single provider may be approved for up to one year without reapplication and approval.

(b) Single courses must be approved on an individual basis.

(8) The board shall not approve an EMT training course which does not comply with current board-approved USDOT curriculum including revisions and statewide protocols, policies, and procedures.

(a) The board shall provide in writing the reason for course denial to the course applicant.

(b) The board may cancel approval of training courses for failure to comply with any of the requirements of this subchapter, providing false information, or failure to provide the board or its designee access to the course and/or other information necessary to assure compliance with board statutes and rules.

(9) In the event the board's designee disapproves an EMT training course, the application will be considered by the board during the next regularly scheduled board meeting or the lead instructor and/or medical director may request in writing an alternate regularly scheduled board meeting.

(10) A lead instructor may conduct required EMT refresher courses without preapproval from the board. The lead instructor must maintain all course records, demonstrating that NSC had been utilized and student performance is documented. All course records shall be made available for auditing purposes. (History: 50-6-203, MCA; IMP, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04; AMD, 2007 MAR p. 1813, Eff. 11/9/07.)

Rules 24.156.2742 through 24.156.2744 reserved

24.156.2745 EXAMINATIONS (1) All practical examinations for all EMT licensure levels and endorsements must be conducted in accordance with the policies and procedures established by the board.

(2) A medical director shall be responsible for the conduct of all locally administered examinations and shall assure that all board policies and procedures are followed. Medical directors may delegate duties where appropriate.

(3) Practical examination materials must be requested from the board on forms prescribed by the board no later than 30 days prior to offering an examination. Examination materials will be sent to the requestor from the board office seven days prior to the scheduled examination date. The post examination materials shall be returned within seven working days following the examination.

(4) The board or its designee may attend and audit all exams requested and offered. (History: 50-6-203, MCA; IMP, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04; AMD, 2007 MAR p. 1813, Eff. 11/9/07.)

Rules 24.156.2746 through 24.156.2750 reserved

24.156.2751 LEVELS OF EMT LICENSURE INCLUDING ENDORSEMENTS

(1) The board issues four levels of licenses for EMTs. Each level has endorsements that may be added to an EMT license. Endorsements do not have to be acquired in the order listed below and may consist of one or more combinations within each EMT level. The levels of licensure and endorsements are as follows:

(a) For EMT - first responder (EMT-F) licenses:

- (i) EMT-F/immobilization;
- (ii) EMT-F/monitoring; and
- (iii) EMT-F/ambulance.

(b) For EMT - basic (EMT-B) licenses:

- (i) EMT-B/airway;
- (ii) EMT-B/monitoring;
- (iii) EMT-B/IV and IO (intervenous infusion and interosseous infusion)

initiation;

(iv) EMT-B/IV and IO maintenance;

(v) EMT-B/endotracheal intubation, for patients more than eight years old;

and

(vi) EMT-B/medication.

(c) For EMT - intermediate (EMT-I) licenses:

- (i) EMT-I/needle decompression/surgical airway;
- (ii) EMT-I/immunizations;
- (iii) EMT-I/drips and pumps; and
- (iv) EMT-I/12 lead transmit.

(d) For EMT - paramedic (EMT-P) licenses:

- (i) EMT-P/12 lead interpretation;
- (ii) EMT-P/medications;
- (iii) EMT-P/fibrinolytic with 12 lead interpretation; and

(iv) EMT-P/critical care transport. (History: 50-6-203, MCA; IMP, 37-1-131, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04; AMD, 2007 MAR p. 1813, Eff. 11/9/07.)

Rules 24.156.2752 and 24.156.2753 reserved

24.156.2754 INITIAL EMT COURSE REQUIREMENTS (1) All courses for EMT licensure levels and endorsements must be conducted in accordance with the policies and procedures established by the board.

(2) An EMT-F course shall be managed by a lead instructor. The lead instructor shall maintain overall responsibility for the quality, consistency, and management of the course. The lead instructor shall:

(a) conduct the EMT-F courses in accordance with current board-approved USDOT curriculum including revisions and statewide protocols, policies, and procedures;

(b) document student skill proficiency on forms prescribed and supplied by the board;

(c) complete the course within six months of the date the course commences; and

(d) provide at least one instructor per six students when practical skills are taught.

(3) An EMT-B course shall be managed by a lead instructor. The lead instructor shall maintain overall responsibility for the quality, consistency, and management of the course. The lead instructor shall:

(a) conduct the EMT-B courses in accordance with current board-approved USDOT curriculum including revisions and statewide protocols, policies, and procedures;

(b) document student skill proficiency on forms prescribed and supplied by the board;

(c) complete the course within 12 months of the date the course commences;

(d) provide at least one instructor per six students when practical skills are taught;

(e) provide a minimum of ten hours of clinical experience with an EMS or in a local patient care setting; and

(f) have a medical director involved in either the course development, presentation, or evaluation.

(4) An EMT-I or EMT-P course shall be managed by a lead instructor under the supervision of a medical director. The lead instructor and medical director shall maintain overall responsibility for the quality, consistency, and management of the course. The lead instructor and medical director shall:

(a) conduct the EMT-I and EMT-P courses in accordance with current board-approved USDOT curriculum including revisions and statewide protocols, policies, and procedures;

(b) document student skill proficiency on forms prescribed and supplied by the board;

(c) provide clinical experience as specified in the approved curriculum and in accordance with this subchapter; and

(d) provide that the course is completed as follows:

(i) the EMT-I course, within 18 months from the starting date of course; and

(ii) the EMT-P course, within 24 months from the starting date of course.

(e) provide clinical experiences with no fewer than one clinical preceptor for every two students;

(f) provide a sufficient patient volume to allow students to complete all clinical experiences within the course dates;

(g) provide EMT-I course clinical facilities that include but are not limited to:

(i) an emergency department with physician staffing;

(ii) intensive care beds or coronary care beds; and

(iii) an EMS operating at a level equal to or greater than the EMT-I level; and

(h) provide for the EMT-P course clinical facilities that include but are not limited to:

(i) an emergency department with physician staffing;

(ii) intensive care beds or coronary care beds;

(iii) operating/recovery room;

(iv) pediatric beds;

(v) labor/delivery room/newborn nursery;

(vi) psychiatric beds;

(vii) morgue;

(viii) radiology department;

(ix) respiratory therapy department; and

(x) an EMS operating at a level equal to the EMT-P level. (History: 50-6-203, MCA; IMP, 37-1-131, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04; AMD, 2007 MAR p. 1813, Eff. 11/9/07.)

Rules 24.156.2755 and 24.156.2756 reserved

24.156.2757 EMT CLINICAL REQUIREMENTS (1) Clinical opportunities for students must be coordinated with the course/program and the clinical facility. There must be a written contractual agreement in place between the course/program and the clinical facility prior to the student being allowed to function in the clinical facility.

(2) EMT-B programs must assure that the student completes a minimum of ten hours of observational time with an EMS. An alternative patient care setting may be used if an EMS is not available. During this time the student shall complete and document:

(a) at least five patient contacts during which the student can observe patient care; and

(b) at least five patient contacts in which the student conducts a patient assessment.

(3) EMT-I and EMT-P programs must assure that the student completes and documents, as a minimum, the clinical contact requirements identified in the board-approved USDOT curriculum including revisions and statewide protocols, policies, and procedures. (History: 50-6-203, MCA; IMP, 37-1-131, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04; AMD, 2007 MAR p. 1813, Eff. 11/9/07.)

Rules 24.156.2758 through 24.156.2760 reserved

24.156.2761 PROCEDURES FOR REVISION OF BOARD-APPROVED EMT CURRICULUM AND STATEWIDE PROTOCOLS (1) At the regularly scheduled board meetings a medical director may initiate a petition for revisions to the board-approved EMT curriculum and/or statewide protocols, policies, and procedures.

(2) The petition must be submitted on a form prescribed by the board with the following supporting documentation:

(a) a written recommendation and/or position statement for revision to the board-approved curriculum and/or statewide protocols, policies, and procedures; and

(b) literature supporting the petitioner's recommendations and/or position.

(3) Upon receiving the petition application, the board will proceed in three phases, as follows:

(a) the board will consider the petitioner's initial petition to determine whether or not to proceed with public comment for the proposed revision. If approved, the board will schedule public comment for the petition during the next regularly scheduled board meeting;

(b) the board will accept public comment to gather information and take testimony regarding the proposed recommendations for revision of the USDOT curriculum and/or statewide protocols, policies, and procedures; and

(c) the board will consider the information and comments and approve or deny the proposed revision.

(4) The board shall approve the proposed revision:

(a) when it is demonstrated to the satisfaction of the board that granting the petitioner's request for revision of the board-approved curriculum and/or statewide protocols, policies, and procedures is necessary to provide appropriate standards of medical care;

(b) where, in the case of an individual service approval, the board finds that the public's interest in granting the revision clearly outweighs the interest of maintaining uniform board-approved USDOT curriculum including revisions and/or statewide protocols, policies, and procedures; and

(c) where, in the opinion of the board, the revisions will provide adequate public health, safety, and welfare protection. (History: 50-6-203, MCA; IMP, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04; AMD, 2007 MAR p. 1813, Eff. 11/9/07.)

Rules 24.156.2762 through 24.156.2770 reserved

24.156.2771 SCOPE OF PRACTICE (1) An EMT licensed or endorsed at the BLS level may perform any acts allowed within the EMT's licensure or endorsement level when:

- (a) operating within the most current version of the Montana statewide EMT protocols;
- (b) under the medical oversight from a medical director who is taking responsibility for the EMT; or
- (c) participating in a continuing education program.

(2) An EMT licensed or endorsed at the ALS level may perform any acts allowed within the EMT's licensure level or endorsement level when:

- (a) under medical oversight from a medical director who is taking responsibility for the EMT;
 - (b) operating on a Montana licensed EMS with a medical director; or
 - (c) participating in a continuing education program.
- (3) An EMT may perform beyond the level of the EMT's individual licensure when functioning as a student in an approved course and under the direct observation of a clinical preceptor. The EMT must perform within the acts allowed at the level for which the EMT is a student candidate.

(4) Except as provided in (3), an EMT may not perform any acts that are beyond the EMT's level of licensure or endorsement.

(5) An EMT currently licensed and in good standing in another state may function during a state and/or federally managed incident under the Montana statewide protocols, policies, and procedures but shall comply with all of the following:

- (a) limit the EMT's practice to the duration of the state and/or federally managed incident;
- (b) practice within the geographic area, whether on federal, state, or private land, designated as being within the state and/or federally managed incident;
- (c) practice at the basic level, even if the EMT is licensed at a higher level in another state, unless the individual is licensed at an EMT-I or EMT-P level, and the federally managed incident has medical control provided by a Montana licensed physician, and the physician authorizes the individual to function beyond the basic level;
- (d) provide proof of current licensure and good standing in another state; and
- (e) submit the appropriate form to the board.

(6) In the event of a bioterrorism attack in which chemical agents are used or suspected as being used, EMTs at all levels who are appropriately trained are authorized by the board to carry auto-injectors and administer them as instructed to themselves and any others. (History: 50-6-203, MCA; IMP, 37-1-131, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04; AMD, 2007 MAR p. 507, Eff. 4/27/07; AMD, 2007 MAR p. 1813, Eff. 11/9/07.)

Rules 24.156.2772 through 24.156.2774 reserved

24.156.2775 MANAGEMENT OF INFECTIOUS WASTES (1) Each EMT licensed by the board shall store, transport off the premises, and dispose of infectious wastes, as defined in 75-10-1003, MCA, in accordance with the requirements set forth in 75-10-1005, MCA.

(2) Used sharps shall be properly packaged and labeled within the meaning of 75-10-1005, MCA, as required by the Occupational Safety and Health Administration (OSHA). If OSHA has no such requirements, the EMT shall place used sharps in a heavy, leak proof, puncture-resistant container and secure the lid with reinforced strapping tape. The container shall bear the words "used medical sharps" on a distinctive label taped or securely glued on the container. (History: 50-6-203, MCA; IMP, 37-1-131, 50-6-203, MCA; NEW, 2004 MAR p. 188, Eff. 1/30/04.)